

Exhibit A

NAAVROW1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 ULKU ROWE,

4 Plaintiff,

5 v.

19 Civ. 8655 (JHR)

6 GOOGLE LLC,

7 Defendant.

Trial

8 -----x

New York, N.Y.
October 10, 2023
10:15 a.m.

10 Before:

11 HON. JENNIFER H. REARDEN,

12 District Judge
13 -and a jury-

14 APPEARANCES

15 OUTTEN & GOLDEN, LLP
Attorneys for Plaintiff

16 BY: CARA E. GREENE
GREGORY S. CHIARELLO
17 SHIRA Z. GELFAND

18 PAUL HASTINGS LLP
Attorneys for Defendant

19 BY: KENNETH W. GAGE
SARA B. TOMEZSKO

20 Also Present: Vincent Yang, Paralegal (Outten & Golden)
21 Andrew Velazquez, Google Rep.
22 Jean Gutierrez, Paralegal (Paul Hastings)

NAAHRow2

Rowe - Direct

1 meaning, you're running and maintaining and buying all of
2 these.

3 With the cloud, cloud service providers like Amazon
4 Web Services, Microsoft Azure, and Google Cloud, the cloud
5 service providers now provide those services over the internet.
6 So you kind of just go use however much technology that you
7 need and just pay for as much as you use over the Internet.

8 And if I were to make an analogy, it's kind of like
9 the Industrial Revolution. It used to be that factories, you
10 know, to power their factories, they used to have power
11 generators in house. These were like steam engines that were
12 coal operated. They used to produce electricity to, like, run
13 the factories. Then what happened was the central power grids
14 came along, and they started producing electricity centrally.
15 So the factories no longer had to run their own setup, but they
16 could just connect to the power grid to get their electricity.
17 So cloud's kind of doing that with technology today just like
18 the power grids did that with electricity in the past.

19 Q. So when we're talking about cloud, this is not the cloud
20 like I store my photos on on my phone and stuff like that?

21 A. No. When we talk about the cloud for the enterprise, it's
22 a lot more complex and expansive.

23 Q. You used the term "enterprise." Can you just define that
24 for us.

25 A. "Enterprise" means just companies that have great size,

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1 scale, complexity. Kind of like JPMorgan Chase.

2 Q. How long has the cloud been around?

3 A. Cloud is relatively new in the technical advancements. The
4 public cloud really started when AWS, Amazon Web Services,
5 started offering their services in 2006. The enterprise
6 adoption, you know, started happening later in the 2010s, in
7 that time. When I was at JPMorgan, really the only credible
8 cloud provider in financial services was AWS. Google Cloud
9 came, you know, much later.

10 Q. So it's fair to say that when Google got into the cloud, as
11 we're talking about in this enterprise level, it was fairly
12 late in the game?

13 A. Yes.

14 Q. Now, as of late 2016 when you were hired at Google, how
15 much technology and financial services experience did you have
16 at that point?

17 A. So that was about 23 years — 23 years.

18 Q. And at that time how much familiarity with the cloud did
19 you have?

20 A. A fair amount.

21 Q. What experience did you have with cloud before you joined
22 Google?

23 A. Cloud is a pretty transformative technology in terms of
24 technical advancement, so I've been following it pretty closely
25 ever since it showed up in the horizon. When I came into

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1 JPMorgan, the enterprise adoption was beginning to happen in
2 certain industries, so we started looking at it more seriously.
3 But a technical change of this size requires a lot of planning,
4 requires due diligence and understanding. And so, you know, we
5 spent a lot of time doing that. And at JPMorgan I was also
6 sitting at JPMorgan's cloud strategy council. This is a
7 council that looks at how should we think about using the
8 cloud, you know, how should we go about migrating our own
9 systems to it.

10 At JPMorgan I was also advising JPMorgan's COO, the
11 chief operating officer, the number two person after Jamie
12 Dimon, JPMorgan's CEO, on the cloud. And I was also working on
13 migrating our own systems into the cloud, you know, the credit
14 risk systems that I was responsible for.

15 Q. So of the time you joined Google, how many years of
16 experience would you say that you had with the cloud?

17 A. So a few years I think leading up to 2015, and then the
18 actual hands-on experience migrating the systems after that.

19 Q. Let's go back to your hiring for a minute. When you were
20 recruited for the technical director role, did you interview
21 for that position?

22 A. Yes.

23 Q. Who did you interview with?

24 A. Will Grannis and Brian Stevens and a few others.

25 Q. Remind us who Brian Stevens is.

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1 A. Brian was the CTO of Google Cloud.

2 Q. And who is Will Grannis?

3 A. Will Grannis was the hiring manager and also my first boss.
4 And Will reported to Brian.

5 Q. Do you remember what was discussed in your interviews?

6 A. Yeah. We talked about my experience building these large,
7 you know, complex IT platforms in financial services. We
8 talked about my experience working with business customers and
9 clients and understanding their needs and how to translate into
10 technology that satisfies those needs. And we also talked
11 about the applicability of cloud for financial services.

12 Q. Now, at the end of 2016 when you interviewed with Google,
13 were you qualified to be a technical director?

14 MS. TOMEZSKO: Objection.

15 THE COURT: Sustained.

16 Q. Ms. Rowe, in your view at the time that you were hired at
17 Google, were you qualified for that position?

18 A. Yes.

19 Q. And what did you understand your qualifications were for
20 the job?

21 A. We talked about my cloud experience, but in addition, at
22 this point now I was a CTO at JPMorgan Chase, one of the
23 largest financial institutions in the world. I had 23 years of
24 hands-on technical experience building these large global
25 systems. And, you know, with cloud experience, that was

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1 probably more than anyone else in the financial services at
2 that point. And I had experience managing very large teams.
3 You know, my team was about 1,000 people, direct and indirect.
4 I had a lot of experience engaging the C-suites, and I also at
5 this point was well-known as a very credible industry leader in
6 financial services technology.

7 THE COURT: Mr. Chiarello, excuse me, I just want to
8 note that I do intend to release the jury promptly at 5:00. It
9 is now 4:47, and I'm going to need about five minutes with them
10 before they leave the room just to provide some final
11 instructions for the day. Just wanted to give you a heads-up.

12 MR. CHIARELLO: I appreciate that, your Honor. I was
13 momentarily going to do a time check with my colleagues anyway.
14 I think I have a few more questions, and then we can break.

15 THE COURT: That's fine. Thank you.

16 MR. CHIARELLO: Thank you, your Honor.

17 BY MR. CHIARELLO:

18 Q. Ms. Rowe, did you have any expectations upon your hire
19 regarding your advancement at Google?

20 A. I did. Based on conversations with Will and Brian, when we
21 were talking about the role, one of the things they said was,
22 you know, they were building this new team of very senior
23 hires. We're all going to be on the same team, but when and if
24 Google Cloud does verticalize, I would be the obvious person to
25 lead that vertical.

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1 Q. When we talk about a vertical, what is does a vertical or
2 verticalization means in this context?

3 A. Vertical means an industry. So it means having — building
4 a team for that team focusing on that industry with the
5 resources, with the remit to set strategy. So just addressing
6 that industry as a whole.

7 Q. At the time you were hired at Google was there a financial
8 services vertical lead?

9 A. No.

10 MR. CHIARELLO: We can stop here, your Honor, if
11 that's OK.

12 THE COURT: Absolutely.

13 (Witness excused)

14 THE COURT: All right. Members of the jury, as a
15 reminder, please do not discuss this case with one another or
16 with anyone else. Do not communicate about the case in person,
17 by email, by Twitter, by Facebook, by any means. And keep an
18 open mind until you have heard all the evidence in this case.

19 Tomorrow we will begin with testimony at 9:30 a.m. In
20 order to ensure that this trial runs as smoothly and
21 efficiently as possible, something that will benefit all of you
22 as well as the parties, it is crucial that we begin on time,
23 and we cannot start until all of you are here. To ensure that
24 we start on time, I'm going to ask you to arrive no later than
25 9:15, and ideally even earlier. As I mentioned, I have

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1 A. Some. Some modest, but, you know, it's mostly stayed flat.

2 Q. Ms. Rowe, when did you officially begin working at Google?

3 A. I started March of 2017.

4 MR. CHIARELLO: Mr. Yang, can we put up Plaintiff's 6.

5 Q. Ms. Rowe, what are we looking at here?

6 A. This was my social media post on the first day I started at
7 Google.

8 Q. How did you feel on that day?

9 A. You can tell from my face, you know, I was happy. I was
10 excited. I felt, you know, very optimistic.

11 Q. Ms. Rowe, were you the only technical director hired at
12 that time?

13 A. No. This was a new group that Google was setting up with
14 some very senior people, and I was hired along with eight other
15 people.

16 Q. At the time you were hired, were you given a level?

17 A. Yes. I learned that I was a Level 8.

18 Q. What are levels at Google?

19 A. Levels are a way of determining, like, where you are in the
20 corporate hierarchy.

21 Q. When did you learn what your level was?

22 A. So it wasn't discussed early on. It wasn't in the job
23 description. It didn't come up during the interview process.

24 It wasn't in the offer letter. I don't remember exactly how I
25 learned, but it might have been through a conversation with the

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1 recruiter.

2 Q. Who was the recruiter?

3 A. Jennifer Burdis.

4 Q. And what conversation did you have with Ms. Burdis about
5 your level?

6 A. So I was coming in as a managing director from JPMorgan and
7 a CTO, you know, kind of coming from the highest level of the
8 corporate hierarchy. So I asked her if Level 8 was
9 appropriate. I wasn't familiar, you know, with the leveling at
10 Google at all. And she said everyone that's hired into this
11 role is coming up as a Level 8.

12 Q. So was it your understanding that the technical directors
13 in OCTO at that time were all functioning as Level 8?

14 A. Yes.

15 Q. Was OCTO at that time just the nine technical directors
16 that were hired at that time?

17 A. No, there were some other more junior people with, you
18 know, less scope and responsibility, mostly ex-Google or
19 enlisting Googlers, but those of us that were coming in were
20 coming in as directors.

21 Q. Ms. Rowe, can we agree when we talk about technical
22 directors in your testimony as I'm examining you that we're
23 referring to the director-level technical directors and not the
24 more junior folks you just described?

25 A. Yes.

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1 Q. Now, did Google hire other technical directors after that
2 group you were hired with?

3 A. Yes. After we came in, there was a pause, and they did
4 hire other batches of — or cohorts of technical directors.

5 Q. Who were the technical directors that were hired with and
6 that came in around the same time as you?

7 A. The first one to come in was Evren Eryurek, and then the
8 last one to come ins with Nick Harteau. And in between it was
9 Benjamin Wilson, Scott — Jonathan Donaldson, Paul Strong,
10 Scott Penberthy, Brian Steikes, myself, and Jennifer Bennett.

11 Q. Ms. Rowe, can you describe generally what your job entailed
12 on a day-to-day basis as a technical director in OCTO.

13 A. Yes. It was a new role and a very senior role. A lot of
14 the work we did was very self-directed, and our work spanned
15 three pillars. You know, it was about customer work, it was
16 about engineering and product work, and thought leadership.

17 Q. Was the customer work described sometimes as customer
18 engagement?

19 A. Yes.

20 Q. So what was your understanding of what customer engagement
21 meant in OCTO?

22 A. Customer engagement meant working with Google's cloud
23 customers, or mostly potential customers, to build, you know,
24 trusted relationships with them so that they understood our
25 products and they knew how to use our products, our Google

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1 down so many more engagements than I could possibly do.

2 Q. You used the word "keynote" a number of times. Can you
3 just define what a keynote is for the jury.

4 A. A keynote is usually the most important speech of either
5 like a daylong or a multi-day event. It usually happens really
6 right at the beginning and it's highlighted as the keynote.
7 It's the main attraction.

8 Q. And did you have an understanding as to how the public
9 speaking you were doing would benefit Google?

10 A. Yes. It was all about building market credibility. You
11 know, as part of our business development exercise, you know,
12 getting the market to know and understand what we had to offer.
13 So it was a very integral part of us addressing the industry.

14 Q. Ms. Rowe, did Will Grannis ever give you performance
15 reviews?

16 A. Yes.

17 Q. And how often would that occur?

18 A. About twice a year.

19 Q. And what feedback did Mr. Grannis provide in those reviews?

20 A. Always stellar. My reviews were always glowing. I got
21 "exceeds expectations" on every single one of them.

22 Q. And "exceeds expectations" is a rating?

23 A. Yes.

24 Q. Did he ever give you constructive feedback?

25 A. Yes. You know, constructive feedback is part of Google's

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1 process.

2 Q. Did Mr. Grannis ever tell you that you were
3 underperforming?

4 A. No, never.

5 Q. Did he ever tell you that you were not meeting the
6 expectations of the role?

7 A. No.

8 Q. Ms. Rowe, when did you learn that not everyone you had been
9 hired with was a Level 8?

10 A. That was in the summer of 2017, my first year there.

11 Q. What did you learn in the summer of 2017?

12 A. Ben and Evren, we were having a casual conversation, and
13 they told me they were Level 9s.

14 Q. When you say Ben and Evren, is that Ben Wilson and Evren
15 Eryurek?

16 A. Yes, Ben Wilson and Evren Eryurek.

17 Q. What was your reaction learning that Mr. Wilson and
18 Mr. Eryurek were leveled at Level 9?

19 A. I was surprised and I was very disappointed.

20 Q. And have you since come to learn that there were other
21 individuals leveled at Level 9 in that group?

22 A. Yes.

23 Q. And who were those individuals?

24 A. Other than Ben and Evren, Nick Harteau, Jonathan Donaldson,
25 and Paul Strong had also been leveled at 9.

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1 Q. Looking at the technical director group that you were hired
2 with, the other individuals that you mentioned, were you able
3 to observe their work?

4 A. Yes, routinely. You know, we worked very closely together.

5 Q. And of those you observed, whose work was most similar to
6 yours?

7 A. Those of us that focused on industries, you know, because
8 we each had our -- and those were Evren Eryurek, he was
9 focusing on healthcare; Benjamin Wilson, he was focusing on
10 energy; Nick was our start-up person; Jen Bennett was focusing
11 on manufacturing.

12 Q. And what about the other technical directors in OCTO, did
13 you have an opportunity to observe what they were doing?

14 A. Yes. You know, we were doing very similar things. You
15 know, we all worked across those three pillars that I
16 mentioned: Customer engagement, engineering, thought
17 leadership. We collaborated a lot. We compared notes. We
18 were in meetings together. You know, we covered each other's
19 customers. I got a chance to observe their work a lot, just
20 not as much as the industry people that I worked very closely
21 with.

22 Q. Ms. Rowe, can you give the jury a sense of how your work
23 compared to that of the industry focused technical directors
24 you mentioned, Mr. Eryurek, Mr. Wilson, Mr. Harteau, and
25 Ms. Bennett?

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1 the next level. You know, if you're in Level 9, it's going to
2 be much easier to get to Level 10.

3 Q. Ms. Rowe, did you speak to anyone after learning that
4 Mr. Eryurek and Mr. Wilson were leveled as Level 9?

5 A. Yes, I talked to Will Grannis.

6 Q. And what did you discuss with Mr. Grannis with respect to
7 what you had learned about Mr. Eryurek and Mr. Wilson?

8 A. So I told him, you know, about my concerns that, you know,
9 when I was being hired, you know, that I had raised this --
10 this issue with Jen, that I was coming in as level -- as a
11 managing director, as a CTO from JPMorgan, and I was told that
12 everyone was coming in as a Level 8. And I had come in and
13 found out that some of the men had come in as a Level 9. And I
14 asked for his help in correcting that because I believed, like,
15 the L9 men had, you know, the same qualifications, if not
16 lesser qualifications than me.

17 Q. And did Mr. Grannis say anything to you?

18 A. He told me that I should speak to Melissa Lawrence.

19 Q. Who is Melissa Lawrence?

20 A. Melissa Lawrence is the HR person that supports OCTO.

21 Q. Did you speak with Melissa Lawrence?

22 A. I did.

23 Q. Before we talk about that, at the time you reached out to
24 Ms. Lawrence, when was that?

25 A. That was about -- that was December, I think, of 2017.

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1 Q. And at the time you spoke with Ms. Lawrence, did you
2 believe that your gender had anything to do with Google's
3 decision to level you at Level 8?

4 A. I did. You know, I was told everyone was coming in as
5 Level 8. And I had come in and found, you know, some of the
6 men were brought in as Level 9s, when we had very, very similar
7 qualifications.

8 Q. And did you share that belief with anyone at that time?

9 A. Not at that time. You know, bringing up gender is a risky
10 topic. You know, I just -- I was really focused on getting the
11 issues sorted, resolved, and I wanted to just move on.

12 Q. Now, when you did speak with Ms. Lawrence, what did you and
13 she talk about?

14 A. We talked about a few things. You know, we discussed my
15 leveling concerns. We talked about an equity refresh issue.
16 We also talked about, you know, earlier in the year, Will and I
17 had a discussion. You know, Will was thinking about taking all
18 the industry-focused technical directors in OCTO and putting
19 them into a group, and he wanted me to run the group. And that
20 hadn't, you know, materialized. I mentioned that.

21 And I also mentioned one more topic. I can't remember
22 the topic.

23 MR. CHIARELLO: Mr. Yang, can you put up Plaintiff's
24 11 just for the witness.

25 Q. Does Plaintiff's 11 refresh your recollection as to

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1 anything else that you might have discussed with Ms. Lawrence?

2 A. Yes. I had heard that Tariq Shaukat was hiring some VPs
3 for industries. And, you know, during my initial hiring
4 discussions, you know, Will and Brian -- you know, we had
5 conversations that, you know, if and when Google Cloud does
6 verticalize, that -- you know, that I would be the obvious
7 person with the, you know, best qualifications for the role.
8 So now that I heard that Tariq was hiring these VPs for
9 industries, I asked Melissa if she knew anything about that.

10 Q. And this conversation with Mr. Grannis that you just
11 referenced, is this the same conversation that you had
12 testified about previously that occurred when you were hired
13 about the vertical lead process?

14 A. Yes.

15 Q. You also mentioned that there was a conversation -- let me
16 step back.

17 You mentioned that you had said to Ms. Lawrence that
18 there was a conversation with Mr. Grannis about leading the
19 industry leads in OCTO. Can you just tell us what your
20 understanding of that was from speaking to Mr. Grannis?

21 A. So he was thinking about putting all the industry-focused
22 people, so people like Ben, who was leading healthcare, Evren
23 who was leading energy, Jen from manufacturing, and others,
24 just into that industry group and have me as the lead for the
25 group, the others reporting to me.

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1 asked him, you know, how would the process be.

2 He said, I need to have two external candidates
3 already vetted before I can introduce you into the process.

4 I asked him how long it's going to take. He said it
5 might take six months.

6 Q. Okay. Now, this VP of financial services role, did you
7 understand this to be the vertical lead role you had discussed
8 with Will Grannis at the time you were hired?

9 A. Yes.

10 Q. This conversation in June with Mr. Shaukat, how much time
11 did you spend talking about the vertical lead role?

12 A. Very little. Five minutes, ten minutes tops. The whole
13 conversation was 30 minutes, so --

14 Q. Okay. Had you ever spoken to Mr. Shaukat prior to the June
15 conversation?

16 A. I think I had just one conversation with him before, maybe
17 in like February that year, just a meet-and-greet saying hi,
18 you know, just senior people getting to know each other.

19 Q. Ms. Rowe, I want to talk a little bit about your time
20 working with Mr. Shaukat. I think you said a moment ago
21 Mr. Shaukat in June had said he didn't know much about you. In
22 the time you reported to him, did he ever reach out to you to
23 set up a meeting to get to know you better?

24 A. No, he did not.

25 Q. Did he ever ask you about your background?

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1 A. No.

2 Q. Did he ever ask you about your prior work experience?

3 A. No.

4 Q. Did he ever ask you what work you had been doing in OCTO
5 before joining his organization?

6 A. No.

7 Q. Did he ever reach out to you to schedule meetings, like
8 one-on-ones?

9 A. No. And I tried to schedule meetings with him. You know,
10 I reached out to him many times directly through my admin,
11 through his admin. The first time after the June meeting that
12 we had a one-on-one was in September. And the entire time, you
13 know, the ten months that I reported to him, we had maybe like
14 three one-on-ones together.

15 Q. And in the time you -- how long were you in Mr. Shaukat's
16 organization?

17 A. Ten months.

18 Q. In that time, how much interaction did you have with him?

19 A. Very little.

20 Q. Were you able to speak with him in team meetings, group
21 meetings?

22 A. I had a lot of difficulty getting on a staff meeting. I
23 couldn't get on it for a long time. Once I got on it, at least
24 one time I got dropped off the meetings. And he didn't include
25 me in customer meetings or strategy meetings or any type of

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1 meetings.

2 Q. Now, in your observation, is that how Mr. Shaukat
3 interacted with everyone?

4 A. No, no. He had a very different relationship with my male
5 peers. He would talk to them, he would hang out with them.

6 And I was sharing an admin with one of my New York
7 peers, and so I knew that he would come to New York. And, you
8 know, they would, you know, have meetings together. And I
9 would -- I didn't even know he was in New York; he wouldn't
10 even say hi to me if I hadn't heard secondhand that he was in
11 town.

12 Q. The New York peer that you shared an admin with, who is
13 that?

14 A. That was Stuart Breslow.

15 Q. And what was Mr. Breslow's role in Mr. Shaukat's
16 organization?

17 A. Mr. Breslow was a new joiner hired by Tariq to focus on
18 compliance. And he was doing a small project on anti-money
19 laundering.

20 Q. Did Mr. Shaukat at least keep you involved by email even if
21 he wasn't meeting with you?

22 A. No. I had, again, a lot of difficulty getting on his staff
23 email lists. And I wasn't being included in the email
24 correspondence either.

25 Q. Did he ever email you about work business?

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1 role, my level would stay at that Level 8.

2 Q. Now, taking a look at your response to Ms. Lawrence above
3 that.

4 MR. CHIARELLO: Mr. Yang, if you can just call that
5 out. Thank you.

6 Q. You write to her: I do find it troubling that all the
7 external candidates to date have been considered for the VP
8 role and I would not be. I know the two finalists to date, and
9 I firmly believe I am more qualified and bring more to the
10 table than both of them.

11 You said that you were more qualified than the two
12 external candidates. Who were you referring to?

13 A. I was referring to Ranjanna Clark and Tais Dwyer.

14 Q. And what's your basis for saying that you were more
15 qualified than both of them?

16 A. Most importantly, I knew my own qualifications. You know,
17 I knew that I had been at Google, I had been kind of doing
18 this -- this role for the last, you know, over -- over a year,
19 close to a year and a half at this point. And, you know, I met
20 every qualification in the job description.

21 And I knew that Ranjanna Clark, her experience, she
22 only had a banking background, like no technology background.
23 She was a banker. And I knew that Tais Dwyer, she came more
24 from a program management background, and she was actually
25 subsequently hired to a Level 7 role under Stuart Breslow.

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1 Q. Now, Ms. Rowe, did Google interview for the financial
2 services vertical lead role?

3 A. Yes.

4 Q. And when was that?

5 A. That was in August of 2018.

6 Q. So a couple months after you had first expressed interest?

7 A. Yes.

8 Q. Can you describe for us the interview process.

9 A. The interview process felt weird. It didn't feel right.

10 Q. Before we get into that, can you describe what the
11 actual --

12 A. What the process? Okay, yeah.

13 So I had an interview with Sebastien Marotte, who was
14 the head of sales, VP of sales for Europe. And then I had
15 three more interviews on Monday with three other people:
16 Darryl Willis, I believe is the name, who was the VP of energy;
17 Vats, who was leading up strategy for Tariq; and Jason Martin,
18 who was the VP of professional services.

19 Q. Okay. Let's talk about the interview with Mr. Marotte.

20 Do you remember when in August that took place?

21 A. Very early in August, maybe August 2nd or thereabouts.

22 Q. And tell us about the interview with Mr. Marotte.

23 A. So we had a 30-minutes videoconference scheduled. When I
24 logged into the videoconference, Sebastien said, Why are we
25 meeting today? He didn't even know it was an interview. I had

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1 to tell him that he was there to interview me for the VP of
2 financial services role. And Sebastien and I had worked
3 together pretty closely. He said that, like, you and I know
4 each other, so we kind of had a friendly chat for 30 minutes.
5 And that was -- that was -- that was the totality of the
6 interview.

7 THE COURT: Mr. Chiarello, I'm just going to interject
8 briefly with a note about scheduling.

9 So it's 10:52 right now, and we have our mid-morning
10 break at 11. So just for your planning purposes and for the
11 sake of the jury, we have about eight minutes left until we're
12 going to take a brief break.

13 MR. CHIARELLO: Okay. When I finish this section, if
14 you think that's a good time, or I'll use the time however your
15 Honor wishes.

16 THE COURT: I'm also mindful that we started about ten
17 minutes late today, through no fault of the jury and with
18 apologies to the jury. If you are coming to a point that's
19 around 11 that's a good place to stop, let me know. We can do
20 it a couple minutes before or after, I think that's fine.

21 MR. CHIARELLO: Okay. I appreciate that, your Honor.

22 BY MR. CHIARELLO:

23 Q. You told us about the interview with Mr. Marotte.

24 Ms. Rowe, can you tell us about the interview with the
25 three other individuals? Just first, do you remember the date

NABHRow3

Rowe - Direct

1 A. I did.

2 Q. When was that?

3 A. That was January of 2019.

4 Q. And who did you retain?

5 A. Cara Greene with Outten & Golden.

6 Q. What caused you to retain legal counsel?

7 A. At that point I had tried really hard and I wasn't going
8 anywhere. So I thought I needed some help.

9 Q. And what happened after you retained legal counsel?

10 A. My counsel reached out to Google to try to reach a
11 resolution.

12 Q. Were they successful?

13 A. No.

14 Q. What did you do next to address your concerns?

15 A. We filed a lawsuit in September of 2019.

16 Q. I want to look ahead just a little bit to 2000 — early
17 2020. At that time did you receive any recognitions or
18 nominations?

19 A. Yes.

20 Q. What recognitions did you receive?

21 A. At that point I think I was — one, nominated or
22 short-listed for the CTO of the year award by Women in IT, and
23 I was one of the five on the short list.

24 Q. And what are — I guess what are the Women in IT awards,
25 what is that?

NABHRow3

Rowe - Direct

1 A. Those are, you know, the — those are awards that both
2 celebrate and recognize women in technology leadership that are
3 doing great work.

4 Q. Now, around that time did you express interest in another
5 role at Google?

6 A. I did.

7 Q. What role was that?

8 A. That was the VP of sales for financial services.

9 Q. How did you learn that Google was looking to fill that
10 role?

11 A. It was in a casual meeting with Kirsten Kliphouse, who was
12 the hiring manager.

13 Q. So tell us about your conversation with Kirsten Kliphouse.

14 A. So Kirsten was relatively new to Google, so I reached out
15 to her for a meet and greet to kind of say hi, introduce
16 myself. And Kirsten and I met actually outside of the office
17 at a coffee shop and kind of just talked about each other, just
18 getting to know each other, the kind of stuff that you talk
19 when you're first meeting a person.

20 Q. Anything else you discussed with her?

21 A. Yes. During this conversation, she mentioned that she was
22 looking for a VP of sales for financial services. She
23 mentioned she didn't really have luck with people with
24 traditional sales backgrounds, so she was looking more broadly
25 with people that are — that are different than just the sales

NABHRow3

Rowe - Direct

1 background, and I told her I'd be interested.

2 Q. Did you discuss anything with her about your background?

3 A. No.

4 Q. Now, the portion of this conversation around the VP of
5 sales role, how long did that last, approximately?

6 A. That was very short. Like, just she mentioned that there
7 was a role, that she was looking more broadly than just the
8 sales background, and she just — you know, just told me to
9 reach out to the recruiter for next steps. So very short.

10 Q. Had you ever spoken with Ms. Kliphouse before that time?

11 A. No. This was our first conversation.

12 Q. In that conversation did she ask you anything about your
13 qualifications?

14 A. No.

15 Q. Did she ask you anything about your background?

16 A. No.

17 Q. Did you discuss with specificity the qualifications for the
18 role?

19 A. No.

20 Q. Did you apply for this role, the VP of sales position?

21 A. I did. I did.

22 Q. How did you apply?

23 A. I did reach out to the recruiter.

24 Q. And who is the recruiter?

25 A. Stuart Vardaman.

NABHRow3

Rowe - Direct

1 to cloud technologies and machine learning, I'd been working at
2 Google for three years.

3 Q. And in what way did you have established actionable
4 executive/C-suite relationships?

5 A. At this point I had a very large network of C-suite
6 relationships, both from places I worked prior to the Google,
7 from places like Bank of America, UBS, and JPMorgan Chase, and
8 also during my time at Google working with, you know, Google
9 Cloud's customers.

10 Q. And in what way do you believe you had a sterling
11 reputation within the financial services sector?

12 A. I was advising President Williams on financial technology
13 issues. I was sitting on Capital G's board. Google was, you
14 know, having me speak at their most important events, talking
15 to their most important customers.

16 MR. CHIARELLO: Mr. Yang, we can take that down, and
17 can you please put up Plaintiff's 106.

18 Q. Ms. Rowe, what is Plaintiff's 106?

19 A. This is me pinging Stuart Vardaman on a status update for
20 the next step for my candidacy for the role.

21 Q. It looks like as of the most recent email on February 25
22 you had scheduled a time to speak with Mr. Vardaman, correct?

23 A. Correct.

24 Q. Did you actually speak with Mr. Vardaman?

25 A. Yes.

NABHRow3

Rowe - Direct

1 Q. When did that call occur?

2 A. Shortly after when it was scheduled.

3 Q. What did Mr. Vardaman tell you in that conversation?

4 A. He told me that I wasn't going to be considered because I
5 wasn't a good fit.

6 Q. And did you say anything to him?

7 A. I asked him — I asked him what that was based on, and he
8 told me it was based on the two-hour interview I had with
9 Kirsten.

10 Q. When did you have a two-hour interview with Ms. Kliphouse?

11 A. I did not have a two-hour interview with Ms. Kliphouse.

12 Q. Had you ever met with Ms. Kliphouse beyond the coffee
13 meeting that you described earlier?

14 A. No.

15 Q. In that meeting how long had you discussed the role?

16 A. It was very short. Ten minutes, maybe.

17 Q. Did you understand that short meeting with Ms. Kliphouse to
18 be an interview for the role?

19 A. No, definitely not.

20 Q. Now, Ms. Rowe, are you aware of who — whether anyone
21 ultimately received the financial services sales role?

22 A. Yes. It went to Yolande Piazza.

23 Q. And are you familiar with Ms. Piazza's background,
24 qualifications for the role?

25 A. Yes.

NABHRow3

Rowe - Direct

1 Q. How are you familiar with her background and qualifications
2 for the role?

3 A. From talking to her, from industry, and also from her
4 hiring packet.

5 Q. So on that basis, how would you compare your qualifications
6 for the sales role to Ms. Piazza's?

7 A. I think that, first and foremost, you know, I was at Google
8 for three years doing, you know, this role, engaging with
9 customers, influencing the industry, building the market for
10 financial services so our customers understood who we are, what
11 we have to offer, what our products had to offer. You know,
12 all the thought leadership I had done in that space, all the
13 regulatory outreach I had done in that space, and all the
14 customer work I had done in that space. This was now three
15 years. I had that. Yolanda, she was coming from the outside.

16 In terms of our qualifications, I had two degrees in
17 computer science, undergrad and grad. Ms. Piazza didn't have
18 any degrees. I was coming in as a CTO that had vast amounts of
19 experience building technology systems at a global scale, large
20 distributed complex systems. Having done that, you know,
21 allows me to work with our customers in a way that I understand
22 what they're going through. They can talk to me as someone
23 who's been in their shoes. I had — you know, I had a lot of
24 experience doing that.

25 Third, I had worked in three different financial

NABHRow3

Rowe - Direct

1 institutions before I came to Google. I worked at UBS. I
2 worked at Bank of America. I worked at JPMorgan Chase. You
3 know, these are some of the largest financial institutions in
4 the world, JPMorgan being the number one, Bank of America being
5 number two in the world outside of China. Having worked at
6 these institutions gave me a very varied understanding of the
7 kinds of things, the businesses in financial services. It
8 spanned everything from retail banking, corporate investment
9 banking, from exchanges, and I kind of got to observe and live
10 and breathe and work on this very different parts of financial
11 services. Ms. Piazza worked for Citibank for 30 years.
12 Citibank, while they're on every street corner, we see them,
13 it's predominantly a retail bank. Their presence in other
14 parts is a lot smaller and their international footprint is
15 also significantly smaller compared to some of the institutions
16 that I've worked in.

17 And you know, when it came to, you know, cloud
18 experience, I had a lot of that. Ms. Piazza did not. And
19 having worked at these financial institutions and having worked
20 at Google Cloud with our customers, I had built a very large
21 network of C-suite relationships.

22 Q. Ms. Rowe, it's 2023, I think, what have you been doing at
23 Google since 2020, since the time you learned you would not
24 receive the sales role?

25 A. I'm still in OCTO. I am still focusing on financial

NABHRow3

Rowe - Direct

1 services, although over time, you know, my role has diminished,
2 and they started bringing people like Ms. Piazza. My
3 contributions are now diluted, not — not what they used to be.

4 Q. Are you still a technical director?

5 A. I am.

6 Q. And what have your performance evaluations been since the
7 time that you moved back to OCTO?

8 A. It's always been "exceeds expectations." In 2022, Google
9 changed the way they did ratings. Until then it was always
10 "exceeds expectations."

11 Q. To what degree are you focusing on financial services?

12 A. I'm still focusing on financial services.

13 Q. Do you still report to Will Grannis?

14 A. No. I've been layered. Last year, in 2022, Will decided
15 to introduce regional managers. I raised my hand for
16 the East Coast regional manager role. I was passed over, and
17 Patricia Florissi was given that role, and now she sits between
18 me and Will.

19 Q. And how long had Ms. Florissi been working in OCTO at the
20 time Mr. Grannis made her your manager?

21 A. She was hired in 2020, so she had been at Google for two
22 years.

23 Q. In the time that Ms. Florissi become your manager, any
24 notable successes in your work?

25 A. Yes. Yes, many.

NABHRow7

Shaukat - Direct

1 correct?

2 A. I was the final interview, so I did two roles in the
3 search. I was the — what I call the gatekeeper interview,
4 which is somebody unknown to Google or unknown to the
5 organization, I was the screener to make sure it was worth —
6 it was calibrated for the role, and then for the very end
7 finalists, I would have typically interviewed. Because Ulku is
8 internal and Brian had essentially asked for her to be in
9 consideration, I didn't feel the need for the gatekeeper
10 interview. We put her straight into the full interview panel
11 that all the other candidates got.

12 Q. And you never did the end interview either, correct?

13 A. She was never in the top two of the people we were
14 considering for the role, so no.

15 Q. You never did anything to learn what qualifications
16 Ms. Rowe had for the VP of financial services role, did you?

17 A. I did not look at her résumé, if that's what you mean, no.

18 Q. Well, did you do anything to learn what her experience was
19 beyond that she'd worked at JPMorgan Chase generally?

20 A. I did not, no.

21 Q. So you didn't know that she had a B.S. and an M.S. in
22 computer science and engineering, did you?

23 A. I assumed as much because she got the job in OCTO, but I
24 didn't verify it, no.

25 Q. And you didn't know that by that point in time, she had

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Shaukat - Direct

1 almost 25 years of experience in the financial services and
2 technology industry, did you?

3 A. Again, the role of being a member of the office of the CTO
4 at Google Cloud is a prestigious role, so I assume a certain
5 level of technical experience and gravitas. We don't hire
6 people with five years of experience into that team. So I did
7 know that she was experienced in the financial services world.

8 Q. Was it because the exact number of years of experience
9 really wasn't relevant to how somebody performed their job at
10 that high level?

11 A. We did not give the most senior jobs to the most tenured
12 people, so no. At some point you look at the impact that
13 people are having, not at the number of years of experience
14 that they have.

15 Q. You had no idea how old Ms. Rowe was, correct?

16 A. I did not, no.

17 Q. So you didn't know that she's approximately the same age as
18 you, correct?

19 A. No.

20 MR. GAGE: Objection to relevance, your Honor.

21 THE COURT: I'm not seeing the relevance either. Are
22 you moving on now from that?

23 MS. GREENE: That's the only question that I asked,
24 your Honor.

25 Q. You didn't know that Ms. Rowe had worked in both the United

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Shaukat - Direct

1 States and Europe, correct?

2 A. I did not, no.

3 Q. And you didn't know what her experience was managing large
4 teams, did you?

5 A. I did not.

6 Q. You didn't know what other financial institutions she had
7 worked for besides JPMorgan Chase, correct?

8 A. At — at this moment in time, in 2018, you're asking?

9 Q. Correct.

10 A. No, I did not.

11 Q. In fact, throughout 2018 into 2019, you didn't know either,
12 did you?

13 A. That's probably true. At some point I learned, but I think
14 maybe when she was bringing it up towards the end of the
15 process, but I don't — for most of the 2018, I did not know.

16 Q. So you didn't have a lot of depth of experience or depth
17 about Ms. Rowe's experience outside of Google, correct?

18 A. Correct.

19 Q. You didn't know that she'd been a senior executive at Bank
20 of America, correct?

21 A. Correct.

22 Q. Bank of America was one of Google's top ten targets for
23 financial services, correct?

24 A. Yes.

25 Q. And you didn't know what her relationships were with the

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Shaukat - Direct

1 MS. TOMEZSKO: To the extent he said it.

2 MR. GAGE: To the extent he said it. But I'm highly
3 confident that it was not the number of years of experience
4 that she had. So counsel's argument is shifting here. That is
5 not — she can ask him why he didn't think she was right for
6 the role. I'm going to.

7 MS. GREENE: Your Honor, I'm just mindful of the
8 clock, and I'd — rather than have Mr. Gage testify, I'd like
9 to continue to question the witness, and I'll skip over the —

10 THE COURT: You already have drawn out a lot in this
11 regard, including all the points you're telling me you wanted
12 to make. We know what his different jobs were and the
13 background. We know how long he was there. We know —

14 MS. GREENE: Right. That's why I'm suggesting I'm
15 prepared to just move on.

16 THE COURT: Yes, let's do that. No more. Thank you.

17 (Continued on next page)

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20
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NABHRow7

Shaukat - Direct

1 (In open court; jurors present)

2 BY MS. GREENE:

3 Q. Mr. Shaukat, we discussed that Ms. Rowe was a Level 8 and
4 that you had represented to her that that would not be a
5 barrier to her receiving fair consideration for the VP-level
6 position, is that what your testimony has been?

7 A. Yes.

8 Q. And you also did not believe that the number of years of
9 experience that Ms. Rowe had was a barrier to her consideration
10 for the VP-level role either, correct?

11 A. Correct.

12 Q. And that's because you understand that at Google leveling
13 decisions are based on the scope of the role and the level max
14 to that, correct?

15 A. That's at least one of the considerations for it, yes.

16 Q. And you've explained that when leveling, Google first
17 determines what is the scope of the role and then tries to find
18 somebody who can perform that role, correct?

19 A. Yes.

20 Q. So as an example, if a role was scoped as a Level 7 and
21 someone was qualified to perform the role and was hired to do
22 so, they would come in as a Level 7 without respect to the
23 actual number of years they had been working, correct?

24 A. Correct.

25 Q. And there are plenty of people that come in — with many,

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Shaukat - Direct

1 many years of experience who come in as lower level managers,
2 and there are people with relatively little experience compared
3 to the average person who come in as a higher level, right?

4 MR. GAGE: Objection, your Honor. Objection.
5 Relevance to the comparison to the average person.

6 THE COURT: I'll allow it.

7 A. Could you repeat the question, please.

8 Q. Have you said before, in explaining how the leveling system
9 works at Google, that there's plenty of people who come in with
10 many, many years of experience, who come in as managers, and
11 that we get relatively little experience — and we get people
12 with relatively little experience compared to the average
13 person who would come in at a higher level, and it's much more
14 about what is the role scoped for and do we believe this person
15 could perform that role?

16 A. That's right.

17 Q. And that's true whether someone's at a Level 5 or a role is
18 a Level 5 role or a Level 7 role or a Level 9 role or a Level
19 10 role, correct?

20 A. I believe so. I wasn't involved with leveling at any of
21 those lower levels, but the only involvement I had was at
22 promotion cycles, and that's how it works for promotion cycles
23 for directors and vice presidents.

24 Q. With respect to the Level 10 vice president role you were
25 considering the question is someone capable of performing that

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Shaukat - Direct

1 role at a Level 10, and if they were, they'd come in at a Level
2 10, correct?

3 A. If the role is scoped at that level and we thought that the
4 person could fulfill the scope at that level, yes. You'd
5 mentioned Dominik Wee earlier. We had originally scoped that
6 role that he came into as a Level 10. We thought that he
7 wasn't quite ready for the full scope of the role, so we
8 de-scoped it and brought him in as a Level 9. So it was a
9 little more interactive than just we had a role, and we looked
10 for someone to fill it.

11 Q. Now, Mr. Wilson and Mr. Eryurek also came into your
12 organization at the same time Ms. Rowe did, correct?

13 A. There were three other people, so the two of them and
14 Mr. Kember as well.

15 Q. And Mr. Kember was more junior than Ms. Rowe and Mr. Wilson
16 and Mr. Eryurek, correct?

17 A. The title they gave him was technical director, the same
18 as. In terms of his level, I believe it was an L5 or an L6 at
19 the time, but he was in the same group, my understanding was,
20 as a peer. He was always represented to me as a peer to Evren,
21 Ben, and Ulku.

22 Q. And you understood that Mr. Wilson and Mr. Eryurek had been
23 performing a role similar to Ms. Rowe's when they were all in
24 OCTO, correct?

25 A. They all — all three of the individuals I mentioned were,

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Shaukat - Direct

1 yes. So we moved all four of them in.

2 Q. And all three — Mr. Wilson, Mr. Eryurek, and Ms. Rowe —
3 were being brought into your organization to continue with the
4 same role they had had in OCTO, correct?

5 A. Yes, although I'm not sure why you're not including
6 Mr. Kember who was the fourth of the people who came over from
7 OCTO. So all four of them came over to do the same role.

8 Q. Right. But Mr. Kember was not a Level 8 or Level 9
9 director, correct?

10 A. He was not, but he was in the same role and we brought him
11 into the same role.

12 Q. But not at the same level, correct?

13 A. Not at the same level, correct.

14 Q. So we talked about earlier that you knew Ms. Rowe was a
15 Level 8 and you also learned that Mr. Wilson and Mr. Eryurek
16 were Level 9s, correct?

17 A. At the time in which they — I didn't know beforehand. As
18 they were slated to move into my organization, I was briefed on
19 all the people and their levels, yes.

20 Q. But you couldn't say what the differences were between
21 Ms. Rowe and Mr. Wilson and Mr. Eryurek, could you?

22 A. No. And as I mentioned, that is generally true for all of
23 the people in my organization. I look at the scope of impact
24 they have, not the level that they have.

25 Q. Now, you mentioned Dominik Wee and Anil Jain earlier. You

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Shaukat - Direct

1 Q. And if we go to the last page, it's dated Friday,
2 September 7, correct?

3 A. Yes.

4 MS. GREENE: OK. You can take that down.

5 Q. Now, you don't recall having a conversation — I'm talking
6 about a conversation in person or over VC or on the telephone,
7 an actual conversation — with Jason or Sebastien or Darryl or
8 Vats, any of the four of them, where they directly shared with
9 you feedback about their interview with Ms. Rowe, correct?

10 A. Apart from the email that I mentioned with Sebastien, I
11 don't recall a conversation with any of them. Normal practice
12 would have been for them to debrief with the recruiter, so
13 Stuart Vardaman in this case.

14 Q. And you don't recall any of them sending you a Google
15 Hangout message with feedback either, correct?

16 A. Correct, that's right.

17 Q. Let's look at P-149. You'd referenced an email you got
18 from Sebastien Marotte.

19 A. Yes.

20 Q. Is this the email you were referencing?

21 A. Yes, I think it is.

22 MS. GREENE: OK. If we, Mr. Yang, call out that
23 message at 1:06 p.m. starting with "hi, Tariq."

24 Q. This is the feedback that Mr. Marotte gave to you, correct?

25 A. Correct.

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Shaukat - Direct

1 Q. He said, "I found her very solid on the technical part but
2 not that strong on the business side." That was his feedback?

3 A. Correct.

4 Q. But he put a caveat in there, right, that it was only 30
5 minutes. That's what the "mn" is?

6 A. Yes.

7 Q. His meeting with her was only 30 minutes, correct?

8 A. According to this note, yes.

9 Q. And he never sent you more detailed notes than this,
10 correct?

11 A. Not that I remember, no. But, again, the normal practice
12 would have been to debrief with Stuart Vardaman, not with
13 myself.

14 Q. So any other feedback apart from this email that you may
15 have heard would have come indirectly from Stuart Vardaman, is
16 that your testimony?

17 A. If indirectly — by indirectly you mean that it would have
18 come them to Stuart to me, yes, that's correct.

19 Q. But you can't recall whether Mr. Vardaman ever shared with
20 you specifically what each panelist said about Ms. Rowe,
21 correct?

22 A. No, I — Stuart did debrief me on the feedback that he did
23 receive in these weekly meetings that we talked about. I can't
24 tell you that he said Vats said this and Jason said this and
25 Darryl said this, but he did share whatever feedback he

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Shaukat - Direct

1 received. It would be his normal practice to share that
2 feedback.

3 Q. Do you recall Vardaman telling you there was no negative
4 feedback about Ms. Rowe?

5 A. I don't recall that, no.

6 Q. Do you recall him saying there was only positive feedback
7 on the technical side?

8 A. Again, I don't recall that, no.

9 Q. Did he tell you that some of the panelists liked Ms. Rowe
10 as a candidate?

11 A. I mean, we all liked Ms. Rowe in general, and I think we
12 thought she was strong on the technical side. That wasn't in
13 huge amount of dispute.

14 Q. You don't know how Mr. Vardaman got any feedback with
15 respect to Ms. Rowe, do you?

16 A. I don't know how he got any feedback. I don't know how he
17 got feedback, no.

18 Q. In fact, Mr. Vardaman repeatedly told you that he was
19 chasing — that was his word — chasing feedback from
20 everybody, correct?

21 A. Yes. But I would characterize 30 percent of Stuart's job
22 on every search is chasing feedback. It wasn't an unusual
23 thing for him to be doing, unfortunately.

24 Q. But if he's chasing feedback, that implies that there's not
25 the feedback yet, correct?

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Shaukat - Direct

1 A. No, no. Sorry, that's very different. When he says he's
2 chasing feedback, he's chasing people formally recording it in
3 the system, not that he's chasing the feedback itself. That's
4 the way that we talked about it was in order to make an offer
5 on anybody, the packet, as we called it, needed to be complete.
6 That meant that all of the holes that you're mentioning now
7 needed to be filled in before you could submit something to the
8 hiring committee.

9 So Stuart — so we made it a practice to try and
10 always have the feedback there so you weren't chasing at the
11 end. So when Stuart says he's chasing the feedback, typically
12 that would be he's chasing, you know, the gaps that you were
13 highlighting here of people not entering their notes into the
14 system.

15 Q. Well, Mr. Vardaman never told you that any of the panelists
16 had told him that Ms. Rowe was too junior for the role,
17 correct?

18 A. He never told me that any of the panelists said she was too
19 junior. I don't know that anybody said she was too junior in
20 those words, yes.

21 Q. And no one ever told you that they thought she was too
22 junior for the role, correct?

23 MR. GAGE: Objection. Asked and answered.

24 THE COURT: Sustained.

25 MS. GREENE: Well, let me rephrase that because it was

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Shaukat - Direct

1 that there was any other expectation. It wasn't a coffee and
2 how do you do; it was a meeting about that job.

3 Q. On December 5th, you told Ms. Rowe that she was not going
4 to get the head of financial services position; correct?

5 A. I believe that was the date, yes. It was early December.

6 Q. You told her that you were pausing the search?

7 A. Yes.

8 Q. You told her you weren't putting anyone in the position;
9 correct?

10 A. We had just had a CEO change the week before. And so at
11 that moment in time we had paused the search. We had a
12 finalist we had been prepared to make an offer to, and we
13 paused making that offer.

14 Q. You did not tell her you were putting Stuart Breslow in the
15 head of financial services position, did you?

16 A. I was not at that time putting Stuart Breslow in as the
17 interim head of the financial services vertical. That decision
18 was made later. As I mentioned, the week before Diane Greene
19 left Google or announced that she was leaving Google, and
20 Thomas Kurian came in as CEO, all priorities for the company
21 were influx at that time. Thomas, as the new CEO, had the
22 right to make a different decision. So when we said "pause"
23 here, the intention was to pick up in January and offer to
24 Diana Layfield the job of head of financial services.

25 THE COURT: Ms. Greene, I intend to adjourn for the

NABVROW8

Shaukat - Direct

1 day in four minutes.

2 MS. GREENE: I just have a few questions on this
3 subject and I think we'll be done with this topic.

4 Q. You actually had decided to put Mr. Breslow in that
5 position in October/early November; correct?

6 A. That is false.

7 Q. Well, you made the decision to put Mr. Breslow in before
8 you communicated it to Ms. Rowe that she was not getting the
9 position; correct?

10 A. That is false, as I just stated.

11 As I stated, Diana Layfield -- and there is emails to
12 this effect -- was the selected candidate. We paused the
13 search. I communicated to Diana Layfield that we would be
14 likely reopening the position in Q1 once Thomas, the new CEO,
15 had made his decision. When Thomas -- that he was going to
16 fund it. When Thomas decided to keep it paused, I put in an
17 interim head of financial services until Thomas made a final
18 determination.

19 MS. GREENE: Okay. We're going to play two quick
20 clips, and then we'll be done.

21 Can we look at 239, page 239, line 11, through 240, 8.
22 240, line 8. 239, 11 to 240, 8.

23 Okay. If you can go ahead and play that.

24 (Video played)

25 MS. GREENE: Okay. And then if we can go to page 240,

NABVROW8

Shaukat - Direct

1 line 24, through 241, line 11.

2 (Video played)

3 BY MS. GREENE:

4 Q. That was your testimony at deposition; correct?

5 A. Correct.

6 MS. GREENE: This is a good time to break.

7 THE COURT: Members of the jury, it is 4:45 p.m., so
8 we'll break for the day. Thank you so much for your attention.
9 It's been another long day and we are all grateful.

10 Please be sure to arrive on time tomorrow, as you did
11 today, so that we can try to stay on schedule. Breakfast will
12 again be provided beginning by 8 a.m. at the latest. Whether
13 you avail yourself of breakfast or not, please be here and
14 ready to go at 9:15 a.m.

15 Please remember my continuing instructions. Keep an
16 open mind until all the evidence is in. Don't reach any
17 conclusions. Please do not talk about this case at all, not
18 with one another or anyone else, including any inquiring minds
19 at home. Please remember also not to look at or listen to
20 anything relating to this case. Do not consult any social
21 media, do not go to any websites or use the internet, anything
22 like that.

23 You can bring your notepads to the jury room and leave
24 them in there, please, overnight. Thank you.

25 Have a wonderful evening and a safe trip home.

NACVROW1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 ULKU ROWE,

4 Plaintiff,

5 v.

19 Civ. 8655 (JHR)

6 GOOGLE LLC,

7 Defendant.

Trial

8 -----x

New York, N.Y.
October 12, 2023
9:10 a.m.

10 Before:

11 HON. JENNIFER H. REARDEN,

12 District Judge
13 -and a jury-

14 APPEARANCES

15 OUTTEN & GOLDEN, LLP
Attorneys for Plaintiff

16 BY: CARA E. GREENE
GREGORY S. CHIARELLO
17 SHIRA Z. GELFAND

18 PAUL HASTINGS LLP
Attorneys for Defendant

19 BY: KENNETH W. GAGE
SARA B. TOMEZSKO

20 Also Present: Vincent Yang, Paralegal (Outten & Golden)
21 Andrew Velazquez, Google Rep.
22 Jean Gutierrez, Paralegal (Paul Hastings)

NACHRow4

Shaukat - Redirect

1 mentioned, Ulku's technical qualifications.

2 Q. Well, let's talk more about the qualifications that you
3 covered with Mr. Gage today. I want you to look at
4 Plaintiff's 14.

5 Is there an objection to this document?

6 (Counsel confer)

7 MS. TOMEZSKO: No objection.

8 MS. GREENE: OK. We can go ahead and put that up.

9 Q. This is an email between you and Mr. Stevens from February
10 of 2018, correct?

11 A. February 2018, yes.

12 Q. In the bottom email there's a discussion about the 2018 S&P
13 Global Leadership Forum?

14 A. Correct.

15 Q. And it's a small group of curated panelists, correct?

16 A. Correct.

17 Q. And you reached out to Brian Stevens, correct?

18 A. Looks like it, yes.

19 Q. And Brian said, "Could always offer to Ulku or someone else
20 in OCTO," and you answered, "Yes. Who do you think would be
21 best? Ulku?"

22 That was your question, correct?

23 A. Yes.

24 Q. And Mr. Stevens said, "Ulku, if we feel they must have FSI
25 cred, so start with her."

NACHRow4

Shaukat - Redirect

1 What is FSI cred?

2 A. Credibility in financial services.

3 Q. Do you know if Ms. Rowe did participate in that S&P global
4 leadership summit?

5 A. I don't recall.

6 Q. Let's look at another document that we looked at yesterday
7 for a different purpose related to your testimony today. Let's
8 pull up P16.

9 Now, you mentioned that one of the problems with
10 people coming from OCTO is that they didn't have deep C-level
11 relationships. Do you recall giving that testimony earlier?

12 A. Yes. I don't think I framed it that way, but yes.

13 Q. And you, I think, testified yesterday that you didn't
14 actually know the nature or extent of Ms. Rowe's C-level
15 relationships, correct?

16 A. Correct.

17 Q. In this document, though, when Mr. Stevens, the CTO, was
18 asking you to consider Ms. Rowe for the position, he
19 specifically called out, if we can look at the bottom, "She has
20 great respect from Cx level at the banks."

21 So you did have some knowledge about the deep level of
22 respect that she had from the C-suite, correct?

23 A. No, I had one line from Brian Stevens suggesting it, but,
24 again, I had an absence of evidence from other sources to that
25 effect.

NACHRow4

Shaukat - Redirect

1 Q. And you didn't do anything to fill that absence, correct?

2 A. I didn't see a need to, no.

3 Q. Because you'd already decided she wasn't right for the
4 role, correct?

5 A. She had not come in with the other — this was not a
6 résumé. This was a do you have a vision? What would you do?
7 You've been in here for a couple of years. You know, let's
8 hear what you have to say. And she did not, as I said, blow me
9 away with that.

10 Q. Well, you talked earlier about Mr. Breslow being
11 recommended by Ruth Porat, correct?

12 A. Yeah. She was an internal reference, which is different
13 than recommended by, but yes.

14 Q. OK. Mr. Stevens actually recommended Ms. Rowe for this
15 role, correct?

16 A. He asked me to consider her for this role, yes.

17 Q. He said she's really calibrated and has the right
18 connections, correct?

19 A. That was his opinion, yes.

20 Q. You mentioned Carrie Tharp?

21 A. Carrie Tharp.

22 Q. Yeah. She was actually hired in August of 2019, correct?

23 A. I don't recall the date that she was hired.

24 Q. And that was after Ms. Rowe had obtained legal counsel and
25 approached Google about her concerns, isn't that right?

NACHRow4

Shaukat - Redirect

1 A. I don't know when Ms. Rowe got legal counsel or approached
2 Google.

3 Q. Were you given a litigation hold at that time?

4 A. I got, as I mentioned, a lot of litigation holds. I don't
5 recall if I got one specifically for this or not.

6 Q. Given your involvement in the case, would you expect you
7 would have gotten a litigation hold at that time?

8 MR. GAGE: Object.

9 THE COURT: Sustained.

10 Q. Let me ask you a different question.

11 How long do interviews for a high-level VP role
12 typically last?

13 A. Thirty to 45 minutes would be typical.

14 Q. You were asked if you had any reason to believe that those
15 interviews were not typical, correct?

16 A. I don't remember that, but I don't believe they were
17 atypical.

18 Q. Did Sebastien Marotte's email saying it was only 30
19 minutes, that caveat, suggest to you that maybe it wasn't the
20 fulsome interview that would be necessary for him to reach a
21 conclusion as to Ms. Rowe's qualifications?

22 A. No. As I just mentioned, 30 to 45 minutes would not be
23 atypical. I think that he said that he was open to other
24 people, like, getting to a different conclusion, which is
25 different.

NACHRow4

Shaukat - Redirect

1 Q. Is it typical for interviewers to not in any form or
2 fashion give any feedback into the gHire system?

3 A. Unfortunately, it was. Yes, it was not the most easy to
4 use system, and people tended to fill it out only when an offer
5 was about to be made or their cases were being closed out.

6 Q. Is it typical not to send any written communications about
7 the review on a candidate?

8 A. Honestly, you'd have to ask recruiting. I got most of my
9 feedback through recruiting, and I don't know if that was
10 verbal or written typically.

11 Q. Do you know whether Diane Layfield had gHire feedback?

12 A. I don't recall if she did or not.

13 Q. Do you know if Ranjana Clark had gHire feedback?

14 A. Again, I don't recall if she did or not.

15 Q. Do you know if Tais Dwyer had it?

16 A. Tais O'Dwyer? No, I don't know if she had it either.

17 Q. You understood that as of November 7, that Ms. Rowe was
18 raising a complaint of gender bias, correct?

19 A. Through that email, yes.

20 Q. And that was before you decided to have Mr. Breslow take on
21 the interim role, correct?

22 A. As we established, I think, yesterday, I had started
23 considering putting in Stuart in October/November of that year,
24 and then I officially announced it in January subsequent to
25 that, yeah.

NACHRow4

Shaukat - Redirect

1 Q. When we've heard two different versions of that story?

2 A. Yes, I can explain, if you would like me to explain, the
3 different versions of that.

4 Q. You want to — no, I mean, I think the jury heard for
5 themselves your absolutely contradictory testimony on a very
6 straightforward question.

7 A. It was, unfortunately, not a straightforward —

8 THE COURT: Ms. Greene.

9 A. So I can explain, if you would like, the apparent
10 contradiction that is not, in fact, a contradiction. I'm happy
11 to do so.

12 THE COURT: I think you've opened the door to that
13 now.

14 Q. Sure. Please explain.

15 A. So as we just heard, in October I found out that Diane
16 Greene was leaving Google; Thomas Kurian was coming into
17 Google. At the time in my staff meeting, I had 25 people
18 reporting in to me or coming in to my staff meeting. One of
19 the things that we had to do was clean up my direct reports.
20 So that did not mean that we were appointing anyone officially.
21 It was what we call a span breaker.

22 So as a part of my direct report line in here, I also
23 in financial services had Leonard Law, who is our product
24 manager for financial services, as an example, attending my
25 staff meetings at this time. So there were numerous people who

NACHRow4

Shaukat - Redirect

1 would eventually report to somebody who were in my staff
2 meeting. I made a decision in October, for what I thought was
3 the good of the organization to be able to show to Thomas that
4 we were not — that we were running a disciplined organization,
5 to put Stuart in as a span breaker to help me reduce the number
6 of direct reports and to make it look like it was a coherent,
7 lack of a better word, organization.

8 What was implied yesterday was that I then shut down
9 the searches for Ranjana Clark or Diana Layfield, which was not
10 true. We assumed that this would be a very temporary
11 appointment as interim, and Diana Layfield was still somebody
12 that we were planning to hire. We only reversed that decision
13 later on in December. I believe November/December after I met
14 Thomas, and that's when we decided that the Stuart interim
15 appointment would go on longer than we had initially said.

16 So I got confused between the span breaker versus the
17 other. In my mind, those are two separate appointments,
18 essentially.

19 Q. OK. So before you told Ms. Rowe that she was not getting
20 the job, you had decided that Mr. Breslow was going to perform
21 it on an interim basis, correct?

22 A. Until I had gotten an opportunity to meet with Thomas
23 Kurian, yes.

24 Q. And you didn't tell Ms. Rowe that, correct?

25 A. Correct.

NACVROW5

Lucas - Direct

1 Q. And you are a plus Kevin, is that you?

2 A. Yes, plus me.

3 Q. And Ms. Rowe was raising a concern with being leveled at
4 Level 8 and later learning that her male peers were all hired
5 at Level 9; correct?

6 A. That's how she outlined it in the note, yes.

7 Q. Okay. Let's turn to the first page on this document and
8 start at the bottom email at 4:49 p.m.

9 Ms. Lawrence wrote to you: Hey, I don't know of any
10 way to address this. It is true that some of the OCTO folks
11 were hired in as L9, but they had much more experience than she
12 did. When I talked to Will, he was unequivocal that we hired
13 her in the right level.

14 Do you see that?

15 A. I do.

16 MS. GREENE: And if you can take that down.

17 Q. Then you asked if she could send you the thread confirming
18 the levels, right?

19 A. Yes.

20 Q. Okay. Let's look at the next email, the 7:42 p.m. email.

21 So you say: I pulled TSC L8/9 hires in OCTO since
22 2016, and then pulled approximate years of experience and
23 education from gHire. Data is here. Do you see that?

24 A. Yes, I do.

25 Q. So explain to me what you did as you've described it here.

NACVROW5

Lucas - Direct

1 A. So we have an internal reporting tool that you can identify
2 people who were hired into a specific organization or reporting
3 hierarchy within a specific time stamp, if you will. And you
4 can narrow that down by job family, in this example, TSC Level
5 8 and 9. So that's what I did.

6 So I pulled the short list of people who fulfilled
7 those kind of attributes and then migrated over to gHire, which
8 is our internal applicant tracking system whereby we process
9 all hiring and transfers across Google, and went person by
10 person to loosely see the significance of the complaint.

11 Q. Okay. You worked in HR, not ER; correct?

12 A. Correct.

13 Q. So your job did not entail undertaking investigations into
14 complaints; correct?

15 A. That is correct.

16 Q. Did you ask anyone before you did this data analysis if
17 years of experience and education were something that had been
18 considered in leveling at the time the leveling decisions were
19 made?

20 A. I don't recall specifically asking anyone.

21 Q. Did you do anything to look at whether years of experience
22 and education were factors that were used at the time the
23 leveling decisions were made?

24 A. No, I generally went on what I had seen to be true in my
25 experience at Google.

NACVROW5

Lucas - Direct

1 Q. And, in fact, your prior testimony was that you have no
2 knowledge that number of years was a factor used to determine
3 level for the technical directors in OCTO; correct?

4 A. I don't recall that testimony; but if you're reading it, my
5 assumption is it's true.

6 Q. Well, sitting here today, do you know if that's true, that
7 number of years was not a factor that was considered in
8 leveling in OCTO?

9 A. I can't speak specifically to OCTO. So when I step back
10 about our hiring process more broadly, years of experience is
11 an input that forms an initial level recommendation that
12 ultimately is a decision. It just determines essentially the
13 hiring rubrics for which someone is assessed.

14 Q. And do you know if that process you just described was used
15 in OCTO during the time that Ms. Rowe was being hired?

16 A. It has been part of our staffing process across Google
17 since I joined the organization ten years ago.

18 Q. Okay. But my question is do you have knowledge that it
19 was, in fact, used with Ms. Rowe at the time she was hired?

20 A. No direct knowledge.

21 Q. Now, let's look at the data that you pooled, and that's
22 going to be Plaintiff's Exhibit 88.

23 MS. GREENE: Can you pull out for us, Mr. Yang, the
24 column's name through hire date. Maybe make it a little bit
25 bigger for everybody.

NACVROW5

Lucas - Direct

1 MS. TOMEZSKO: Objection.

2 Q. In terms of years of hire?

3 THE COURT: Sustained.

4 Q. Ms. Rowe had the same number, 19, as Nicholas Harteau,
5 under the column years at hire; correct?

6 A. Correct.

7 Q. And Mr. Grannis had 18 years at hire; correct?

8 A. That is correct.

9 Q. And what is the "experience in" column?

10 A. The experience -- so if I remember correctly, I think the
11 experience in was simply post college or school; so kind of a
12 totality of experience. So almost the difference between
13 domain experience versus overall working experience.

14 Q. Did you do anything to verify whether those numbers were
15 correct?

16 A. No.

17 Q. Okay. If we look at education, Paul Strong, B.S. in
18 physics; correct?

19 A. Sorry. Yes.

20 Q. And none of the men who are listed as Level 9s have
21 computer engineering degrees; correct?

22 A. Computer engineering.

23 Q. Or computer science.

24 A. Not based on this data, the translatable.

25 Q. Okay. Do you know if Nicholas Harteau had any degrees?

NACVROW5

Lucas - Direct

1 A. I'm not familiar with Nick specifically.

2 Q. And Jonathan Donaldson had not received his master's, but
3 was six hours short; correct?

4 A. That's what it appeared, yeah.

5 Q. And Paul Strong only had a bachelor's; is that correct?

6 A. As far as I can tell.

7 Q. And Ms. Rowe had a B.S. and M.S. in computer science;
8 correct?

9 A. That's what I see, yeah.

10 Q. So do you know if this analysis you did in any way follows
11 any sort of established investigative process for someone who's
12 raised a concern about their level?

13 A. No, which is why I didn't lead the investigation; I passed
14 it to our employee relations team who manages that process.

15 Q. Do you know if this information was shared with Ms. Rowe
16 that she was leveled the same by years of experience and
17 education as these other people so she was not under-leveled?
18 Do you know if that was shared with her?

19 A. I don't know.

20 Q. Do you know if ER relied on the data that you pooled as
21 part of its investigation into Ms. Rowe's concern?

22 A. I don't know. You would need to ask our ER partner on
23 that.

24 MS. GREENE: Okay. You can take that down, Mr. Yang.

25 Q. Okay. I want to bring your attention to a document. We're

NACVROW5

Lucas - Direct

1 not going to publish it to the jury at this time. It's P-102.

2 Do you recognize this document?

3 A. Yes, it appears like something that's posted on an internal
4 hiring site.

5 Q. And do you recognize the substance and the content of this
6 document?

7 A. Is there a way for me to make it bigger on my screen?
8 Apologies.

9 Q. Sure.

10 MS. GREENE: Vincent, can you call up the text of it,
11 please.

12 A. Apologize. Can you repeat the question again?

13 Q. Sure. Do you recognize the substance of this document?

14 A. Generally, yeah.

15 Q. Does this document accurately reflect Google's leveling
16 approach as it existed in 2016/2017?

17 A. I don't know because there's not a date stamp on it.

18 Q. I'm asking you that question specifically because we don't
19 have the version that existed in 2016 and 2017. So I'm asking
20 you if this, as far as you remember, was the policy that was in
21 place during that time period?

22 A. Can you give me a moment to read it all?

23 Q. Please. And I'm actually going to ask you specifically
24 about the section that says "do not," if you want to look
25 there.

NACHRow6

Vardaman - Direct

1 (In open court; jurors present)

2 BY MS. GREENE:

3 Q. Mr. Vardaman, I'm going to ask you a yes-or-no question.

4 Are you here because you feel the need to defend
5 actions that you yourself took in the course of Ms. Rowe's
6 employment?

7 A. No.

8 Q. Are you here because you believe that Ms. Rowe has accused
9 you wrongly of wrongdoing?

10 A. No.

11 Q. You're here simply to tell the truth?

12 A. Correct.

13 Q. And without telling us anything about anything more than
14 your own change of heart about testifying here in person, what
15 was your change of heart? Why were you originally not going to
16 testify? And, again, I don't want you to tell me anything that
17 precipitated it, but tell me just about your change of heart.

18 A. Sure. I was intended to — I was intending to show up in
19 person the entire time. The court date moved around quite a
20 bit, as did my schedule for travel and all that. The last time
21 I recall it was landing during my kid's first week of school,
22 and I wasn't going to miss that.

23 Q. All right. We'll see if we come back to that later.

24 Mr. Vardaman, in the course of your recruitment for
25 the financial services vertical lead position, you did not

NACHRow6

Vardaman - Direct

1 discuss with Mr. Shaukat what Ms. Rowe's qualifications were,
2 correct?

3 A. As a matter of process for internal Googlers, my job was to
4 raise candidacy to the hiring manager who made the decision to
5 include them in process or not.

6 Q. OK. So, yes-or-no question, is it correct that you did not
7 discuss with Mr. Shaukat what Ms. Rowe's qualifications were?

8 A. Correct.

9 Q. Is it correct that the extent of your knowledge about her
10 background was that she had worked at JPMorgan Chase?

11 A. Incorrect. We ended up spending time talking about her
12 background.

13 Q. When?

14 A. I'm sorry?

15 Q. When?

16 A. Over the course of — after I was asked to include her in
17 process, I recall we had a videoconference.

18 Q. What did you know about her industry background?

19 A. I walked through her background at a high level so that I
20 could ascertain enough information to send the prep note to the
21 panel members. But, again, once the decision had been made to
22 include her into panel, that was my intention to deliver on
23 that to the decision-maker.

24 Q. Mr. Vardaman, do you recall me deposing you in this case?

25 A. Yes, I recall.

NACHRow6

Vardaman - Direct

1 Q. And you recall giving testimony under oath in that case?

2 A. I do.

3 Q. I'd like to now play for you a portion of that testimony.

4 A. OK.

5 Q. It's going to be page 42, line 5 through 14.

6 Once you have it, Mr. Yang, you can go ahead and play.

7 (Video played)

8 MS. GREENE: You can stop it there.

9 Q. Was that your testimony?

10 A. That was, in fact, my testimony.

11 Q. Did you give true testimony when you testified?

12 A. I did.

13 Q. Now, you didn't know what role Ms. Rowe had had at JPMorgan
14 Chase, correct?

15 A. That's correct.

16 Q. And you didn't know how many years she had worked in the
17 financial services industry, correct?

18 A. That's correct.

19 Q. You didn't know what her technological background was,
20 correct?

21 A. Correct.

22 Q. And you didn't know what advance degrees she held, correct?

23 A. Correct.

24 Q. You did not know what her experience was managing teams,
25 correct?

NACHRow6

Vardaman - Direct

1 A. That is correct.

2 Q. And you did not speak with Brian Stevens about her
3 qualifications for the role, correct?

4 A. No, I did not.

5 Q. And you did not speak with Will Grannis about Ms. Rowe's
6 qualifications for the role, correct?

7 A. That is correct.

8 Q. In fact, you never learned what her qualifications were for
9 the financial services vertical lead role, isn't that right?

10 A. As I mentioned earlier, the decision was made to involve
11 her in process, and that is my job, as steward of the process
12 for recruiting, to involve her in that process.

13 Q. Let's go back to your deposition testimony, and we're going
14 to look at page 43:2 through 7.

15 Mr. Yang, if you could play that.

16 (Video played)

17 MS. GREENE: And if we can play the answer.

18 Q. I think we locked up, but was your answer to that question
19 no?

20 A. Yes, it's right there.

21 (Video played)

22 MS. GREENE: OK. We can leave it, Mr. Yang. Thank
23 you. Sometimes technology is not our friend, even when we're
24 trying our best.

25 Q. Was that truthful testimony when you gave it at your

NACHRow6

Vardaman - Direct

1 deposition?

2 A. Yes.

3 Q. But that's different than what you just testified here
4 today, correct?

5 A. As I recall, later on in the deposition, I provided
6 additional context.

7 Q. My question was the testimony we just heard was different
8 than what you just said here in court about what you knew about
9 her qualifications, correct?

10 A. That was my testimony, yes, ma'am.

11 Q. OK. Now, before the panel of interviews, you sent the
12 interviewers information about Ms. Rowe, correct?

13 A. That is correct.

14 Q. OK. Let's look at Plaintiff's 37.

15 Do you recognize this as an email from you to Jason
16 Martin?

17 A. I do.

18 Q. And Mr. Martin was one of the individuals who interviewed
19 Ms. Rowe, correct?

20 A. As I recall, yes.

21 Q. And under context and competencies — Mr. Yang, if you can
22 call those two bullet points out — it says: "Ulku was on
23 Brian Stevens' team before the reorg occurred that resulted in
24 some of the vertical OCTO folks transitioning to Tariq's
25 organization." And then going on, it says: "Brian Stevens is

NACHRow6

Vardaman - Direct

1 Q. It says: "Impression: Executive poise, confident (but not
2 ego-driven) forthright with a quick operating cadence."

3 You wrote that, correct?

4 A. I did.

5 Q. And then "RRK," what does that stand for?

6 A. It's role-related knowledge is what it stands for.

7 Q. And under concerns you noted "no major concerns are noted,"
8 correct?

9 A. That is correct.

10 MS. GREENE: Let's take down that document.

11 Q. Then, Mr. Vardaman, did you send the same sort of email to
12 each of Ms. Rowe's interviewers?

13 A. Yes.

14 Q. Now, in Ms. Rowe's case, none of the four interviewers
15 provided feedback into the gHire system, isn't that right?

16 A. We'd sometimes receive feedback outside of gHire, but it
17 was not entered, to my knowledge, in the gHire system, correct.

18 Q. So I just want to make sure it's clear. It's a yes-or-no
19 question. You know that none of the four interviewers provided
20 feedback into the gHire systems for Ms. Rowe, correct?

21 A. I don't recall them having entered it the last time I saw
22 the system.

23 Q. And you yourself did not make any notes, written notes or
24 typed notes, of any informal feedback you may have received
25 from interviewers, correct?

NACHRow6

Vardaman - Direct

1 A. I believe that's correct.

2 Q. And you yourself did not do anything to document any
3 internal feedback you may have received, correct?

4 A. That is correct.

5 Q. And you didn't share any informal feedback you may have
6 received with Mr. Shaukat, isn't that right?

7 A. I — I don't recall. I don't think so.

8 Q. And Mr. Shaukat didn't share with you any feedback that he
9 may have reviewed, correct?

10 A. No.

11 Q. No, that's not correct, or no, he didn't share that with
12 you?

13 A. Sorry. No, I don't recall him sharing that with me.

14 Q. Did anybody tell you that they thought Ms. Rowe was
15 abrasive?

16 A. No.

17 Q. Did anyone tell you that they thought Ms. Rowe was
18 cantankerous?

19 A. No.

20 Q. Did anyone tell you that they thought Ms. Rowe was not
21 Googly?

22 A. No.

23 Q. Did anyone express to you that they had ego concerns about
24 Ms. Rowe?

25 A. No, not that I recall.

NACHRow6

Vardaman - Direct

1 Q. Do you believe Ms. Rowe to be self-oriented?

2 A. Not that I recall.

3 Q. Did anyone communicate to you that they thought Ms. Rowe
4 was self-oriented?

5 A. No, not that I recall.

6 Q. And had Mr. Shaukat ever told you that he had gotten that
7 sort of feedback about Ms. Rowe?

8 A. No, he wouldn't have shared something like that with me.

9 Q. Let's look at Plaintiff's Exhibit 111.

10 Now, you're familiar with the Thrive system at Google,
11 correct?

12 A. Yes, ma'am, I am.

13 Q. And Thrive is another system that recruiters use at Google,
14 is that right?

15 A. That is correct.

16 MS. GREENE: Now, if we can go to the second page —
17 actually, if you could go back to the first page, Mr. Yang.

18 Q. You see where it says "related to" and then it says
19 "candidate information for Ulku Rowe"? Do you see that?

20 A. Yes, yes.

21 Q. So this is a Thrive printout related to Ms. Rowe, is that
22 right?

23 A. That is correct.

24 MS. GREENE: Let's go to the second page of this
25 document, and if we can call out the financial services

NACVROW7

Vardaman - Direct

1 Q. Now, you only had one conversation with Ms. Kliphouse about
2 Ms. Rowe; correct?

3 A. I don't recall the specific number of conversations, I
4 really don't.

5 Q. Well, do you recall having testified at your deposition
6 about a conversation you had with Ms. Kliphouse?

7 A. I recall letting her know that Ulku is interested in the
8 role. I do.

9 Q. And do you recall saying that -- well, did you tell
10 Ms. Kliphouse that Ms. Rowe had contacted you?

11 A. That probably came up by the time I was connecting -- and I
12 was connecting with Ms. Kliphouse regularly, or semi regularly.
13 I -- yes, at some point in time after Ulku reached out, I would
14 have surfaced that with the hiring manager, Ms. Kliphouse.

15 Q. And Ms. Kliphouse confirmed that she and Ms. Rowe had had
16 coffee; isn't that right?

17 A. As I recall, by the time I had reached out, Kirsten had
18 mentioned -- Ms. Kliphouse had mentioned that she had coffee
19 with Ulku; correct.

20 Q. And as of the time of your deposition, that's the only
21 conversation you recalled having with Ms. Kliphouse about
22 Ms. Rowe; correct?

23 A. I believe that's right.

24 Q. Now, you had a call with Ms. Rowe eventually with respect
25 to this position; correct?

NACVROW7

Vardaman - Direct

1 A. Yes.

2 Q. And that was later in February?

3 A. Yes.

4 Q. Now, in between the time that you sent Ms. Rowe the job
5 description and the videoconference you had with her -- was it
6 a videoconference?

7 A. It was a videoconference.

8 Q. You didn't do anything to find out about Ms. Rowe's
9 qualifications for this position; correct?

10 A. That is correct. I recall providing that testimony in the
11 deposition.

12 Q. And you didn't do anything to find out about her
13 qualifications not just for this position, but at all; correct?

14 A. It would have been relative to this specific position I was
15 working on. No, I don't believe I had another conversation
16 with Ulku, no. Ms. Rowe.

17 Q. And you can't remember whether you even looked at her
18 LinkedIn profile between the time you sent her the financial
19 services sales -- VP sales financial services job description
20 and the time you told her she wasn't going to be considered;
21 isn't that right?

22 A. As a matter of process, I am sure I looked at her LinkedIn
23 profile. Ultimately, by the time I raised Ms. Rowe's candidacy
24 to Ms. Kliphouse, Ms. Kliphouse said they had met for coffee
25 and that she wanted me to focus on another candidate.

NACVROW7

Vardaman - Direct

1 Q. You didn't testify at your deposition about Ms. Kliphouse
2 telling you that she wanted to focus on another candidate, did
3 you?

4 A. No, I did not.

5 Q. So that's new testimony; correct?

6 A. Yeah, I guess you can say that.

7 Q. And do you recall me at your deposition asking you to tell
8 me everything about the conversation you had with
9 Ms. Kliphouse?

10 A. Yes, ma'am. "Everything" is quite big.

11 Q. And do you recall me asking you at your deposition if you'd
12 had any other conversations about Ms. Rowe that you hadn't
13 testified to? Do you recall me asking you that?

14 A. I do. I was quite nervous and ready to jump off the video.

15 Q. Okay. So you remember now today what you didn't remember
16 three years ago, when it was the same year in which this had
17 happened, is that what you're saying?

18 A. Yes.

19 Q. And when you were deposed in 2020, do you recall giving
20 testimony about whether you'd reviewed her LinkedIn profile?

21 A. I don't recall.

22 Q. So do you or do you not have a specific recollection of
23 even just looking at her LinkedIn profile before you had a
24 videoconference where you told her she wasn't going to be
25 considered?

NACVROW7

Vardaman - Direct

1 A. Again, as a matter of process, I would have looked at her
2 LinkedIn profile. I do not have a specific recollection of
3 having done that for that search, no, ma'am.

4 Q. Now, it would have been impossible for you to tell
5 Ms. Kliphouse anything about Ms. Rowe's qualifications or
6 experience or background or expertise or reputation or network
7 when you didn't know anything about those things yourself;
8 correct?

9 A. I had assumed that Ms. Rowe was the best -- she was the
10 best possible person -- person, excuse me, to talk about her
11 background with the hiring manager.

12 Q. Did you set up an interview for Ms. Rowe with
13 Ms. Kliphouse?

14 A. No, I did not.

15 Q. Did you set up a telephone conversation with Ms. Rowe and
16 Ms. Kliphouse?

17 A. No, I did not. Ms. Kliphouse, again, told me that she had
18 connected with Ulku over coffee.

19 Q. Did she tell you how long that had lasted?

20 A. I don't recall.

21 Q. Did she tell you whether they discussed her qualifications?

22 A. I don't recall.

23 Q. But again, you weren't in a position to tell Ms. Kliphouse
24 anything because you didn't know anything about her
25 qualifications, experience, background, expertise, reputation,

NADHRow1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 ULKU ROWE,

4 Plaintiff,

5 v.

19 Civ. 8655 (JHR)

6 GOOGLE LLC,

7 Defendant.

Trial

8 -----x

New York, N.Y.
October 13, 2023
9:30 a.m.

10 Before:

11 HON. JENNIFER H. REARDEN,

12 District Judge
13 -and a jury-

14 APPEARANCES

15 OUTTEN & GOLDEN, LLP
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16 BY: CARA E. GREENE
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17 SHIRA Z. GELFAND

18 PAUL HASTINGS LLP
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19 BY: KENNETH W. GAGE
SARA B. TOMEZSKO

20 Also Present: Vincent Yang, Paralegal (Outten & Golden)
21 Andrew Velazquez, Google Rep.
22 Jean Gutierrez, Paralegal (Paul Hastings)

NADVROW2

Vardaman - Redirect

1 reaches out, you see. February 10th, she's reached out to you;
2 correct?

3 A. Yes, ma'am.

4 Q. And you're not aware as of February 14th, having done
5 anything to let Ms. Kliphouse know that Ms. Rowe had been
6 reaching out and was interested and wanted to be considered for
7 the position; correct?

8 A. No, I believe I said I don't recall when my conversation
9 with Ms. Kliphouse was.

10 Q. Let's, if we can, go to -- well, let me ask you, do you
11 recall -- when was the first time that you alerted or even
12 thought to alert Ms. Kliphouse that Ms. Rowe was interested?

13 MS. TOMEZSKO: Objection. Asked and answered.

14 THE COURT: Sustained.

15 Q. Okay. Let's turn to the first page of this document,
16 P-106. So on February 20th, Ms. Rowe reaches out again to
17 check on updates; correct?

18 A. February 20th. Yes, yes, ma'am.

19 Q. And you say: Hi, Ulku. Not yet. We are trying to get on
20 Kirsten's calendar tomorrow. Thank you.

21 Do you see that?

22 A. I do.

23 Q. Okay. Now, do you recall if that caused you to do
24 something in terms of alerting Ms. Kliphouse that Ms. Rowe was
25 interested for the position?

NADVROW2

Vardaman - Redirect

1 A. It looks like we have a meeting, a scheduled meeting with
2 Kirsten the next day, February 21st.

3 Q. And do you recall what you did in preparation for that
4 meeting?

5 A. I may have updated a document.

6 Q. Did you do anything with respect to identifying Ms. Rowe's
7 qualifications or her experience or talking with anyone
8 internally about Ms. Rowe or the work that she'd been doing?
9 Did you do anything of that nature?

10 A. I believe I testified yesterday that I did not.

11 (Continued on next page)

NADHRow3

Vardaman - Redirect

1 Q. Now, was February 21 the first time you let Ms. Piazza know
2 that — I'm sorry, Ms. Kliphouse know that Ms. Rowe was
3 interested in the position?

4 MS. TOMEZSKO: Objection. Asked and answered.

5 THE COURT: Sustained.

6 Q. Do you recall whether February 21 was the date on which you
7 let Ms. Kliphouse know?

8 MS. TOMEZSKO: Same objection. Asked and answered.

9 THE COURT: Sustained.

10 Q. Let me show you a document to refresh your recollection,
11 D74, and this is just to refresh your own recollection.

12 Does this refresh your recollection as to whether on
13 February 25 you were alerting — I'm sorry, February 21 you
14 were alerting Ms. Kliphouse that Ms. Rowe had raised her hand
15 to be considered for the role?

16 MS. TOMEZSKO: Same objection. Asked and answered,
17 your Honor.

18 THE COURT: I'll allow it now.

19 A. I do see her name on this document, along with Tais
20 O'Dwyer.

21 Q. How many other internal candidates were being considered at
22 that point in time?

23 A. Is there another page? It looks like that's a — OK. It
24 looks like those two at that juncture.

25 Q. That were being considered for the role?

NADHRow3

Breslow - Direct

1 A. Yes.

2 Q. Testimony was truthful?

3 A. Yes.

4 MR. CHIARELLO: Mr. Yang, can we play for the jury
5 72:20 to 73:8.

6 (Video played)

7 MR. CHIARELLO: Thanks, Mr. Yang.

8 Q. Mr. Breslow, did you understand that one of your
9 responsibilities was to identify cloud-related design,
10 development, or deployment friction points from the customer's
11 perspectives and to rally your teams to work through solutions?

12 A. Sorry, could you repeat that.

13 Q. Sure. Did you understand that one of your responsibilities
14 as managing director of technology and policy was to identify
15 cloud-related design, development, or deployment friction
16 points from the customer's perspective and to rally your teams
17 to work through solutions?

18 A. Yes.

19 Q. Did you understand the function of your role that you were
20 expected to work closely with the product engineering teams in
21 GT and GPT?

22 A. I'm sorry. I didn't catch the two. In what? In G?

23 Q. GT and GPT.

24 A. I don't remember what those acronyms stand for. Sorry.

25 Q. OK.

NADHRow3

Breslow - Direct

1 A. The answer's probably yes. I just don't remember what
2 those acronyms are.

3 Q. You don't have any reason to think that wasn't part of your
4 role?

5 A. No, probably was.

6 Q. And the role, as you understood it, also included doing
7 deep dives with internal engineering teams on key cases for a
8 given launch, correct?

9 A. Yes.

10 Q. In your role did you understand that your responsibility
11 included partnering closely with top global companies as their
12 most-trusted Google technical adviser?

13 A. Absolutely.

14 Q. Was part of your responsibility to tell the Google
15 innovation story and help translate it to actionable steps
16 global companies can take towards adoption of the cloud?

17 A. Absolutely.

18 Q. And did you understand one of your responsibilities to be
19 — to include public evangelism for emerging technologies and
20 speaking publicly on those issues?

21 A. Absolutely.

22 Q. Now, Tariq Shaukat was your manager while you were employed
23 at Google, correct?

24 A. Correct.

25 Q. And in your managing director of technology and policy

NADHRow3

Breslow - Direct

1 role, you met with Mr. Shaukat on a frequent basis, correct?

2 A. I think "frequent" is in the eye of the beholder, but, yes,
3 we did meet a fair amount.

4 Q. And "frequent" is a word that you used in your deposition,
5 correct?

6 A. If I did, I did. Deposition was a couple years ago.

7 Q. And you had a standing call with Mr. Shaukat every week or
8 every other week?

9 A. Correct.

10 Q. And —

11 A. His name is pronounced Shaukat, not Shaukat.

12 Q. OK. I believe Mr. Shaukat used Shaukat, but appreciate the
13 clarification.

14 If Mr. Shaukat could not keep a call with you, he
15 would reschedule it relatively proximate to the scheduled time
16 you were supposed to speak, is that right?

17 A. Depended, but generally, yes.

18 Q. And he was available to you and would speak to you whenever
19 needed, correct?

20 A. Yes.

21 Q. He was always accessible to you?

22 A. Yes.

23 Q. And in addition to speaking with him, you also met with him
24 in New York or California approximately every month or so,
25 correct?

NADHRow3

Breslow - Direct

1 A. No. I'm assuming you mean in person in California or New
2 York —

3 Q. Yes.

4 A. — as opposed to a videoconference?

5 Q. Correct. You would meet with him in person in either
6 California or New York approximately every month to six weeks?

7 A. No.

8 MR. CHIARELLO: Mr. Yang, can we play for the jury
9 89:10 — I'm sorry. Just give me one second. It's going to be
10 86:15 to 87:4.

11 (Video played)

12 MR. CHIARELLO: Thank you, Mr. Yang.

13 Q. When you met with Mr. Shaukat person, you would meet for
14 meals, correct? For breakfast, lunch, or dinner?

15 A. We met once in New York for breakfast, once in New York for
16 lunch, and once in New York for dinner. We didn't meet in
17 California for any of those meals.

18 Q. And Mr. Shaukat initiated those meetings with you, correct?

19 A. I don't recall whether he initiated them or I initiated
20 them. They happened.

21 MR. CHIARELLO: Mr. Yang, can we put up
22 Plaintiff's 72, please.

23 Q. Mr. Breslow, this is an email exchange between you and
24 Mr. Shaukat between February 28, 2019, and March 1, 2019.

25 And, Mr. Yang, if we could take a look at the second

NADHRow3

Breslow - Direct

1 page.

2 In the email from you to Mr Shaukat — if we can just
3 call out the top two lines there.

4 A. I'm sorry, you're talking about the middle of the page or
5 sort of down the page?

6 MR. CHIARELLO: Mr. Yang, it's the February 28 at 5 —
7 7:57.

8 A. OK. Got it.

9 Q. The first two lines there.

10 A. Thank you.

11 Q. And you write to Mr. Shaukat: "Great catching up with you
12 over lunch yesterday. If only there were more hours in the day
13 and we were in the same city, we could do it more often,"
14 correct?

15 A. Correct.

16 Q. That's what you wrote him?

17 A. Yeah, I wrote that.

18 MR. CHIARELLO: And, Mr. Yang, can we call out the
19 bottom two lines of that same email.

20 Q. You write to Mr. Shaukat: "Safe travels. I'm assuming
21 you'll have high quality BBQ in KC and not froufrou steak
22 frites as you were subjected to in New York yesterday,"
23 correct?

24 A. I wrote that, yes.

25 Q. And is that the lunch you were catching up with him over

NADHRow3

Breslow - Direct

1 that you referenced at the beginning of the email?

2 A. I'm sorry. I'm confused. The first part was about the
3 lunch I referenced. The second part, I don't know when — I do
4 not recall that he had a steak at lunch.

5 Q. So the froufrou steak frites you had with him was a
6 separate meal that you subjected him to the day prior?

7 A. He might have had a meal with someone else. I had one more
8 meal with him. By the way, I'm a lacto-ovo-pesco vegetarian.
9 I haven't had steak in 25 years.

10 Q. I see. So your testimony is the steak frites you were
11 referring to is not a meal you had with him?

12 A. He may have had that meal. This was in 2019. It's four
13 years later. I don't recall him eating steak at lunch, but
14 maybe he had a steak at lunch. Maybe he had a steak later in
15 the day with someone else. I don't recall.

16 MR. CHIARELLO: OK. Mr. Yang, you can take that down.

17 Q. Now, Mr. Breslow, in December of 2018, Mr. Shaukat made you
18 the head of financial — head of the financial services
19 vertical, correct?

20 A. I'm sorry, the time frame was what? December of 2018, is
21 that what you said?

22 Q. Yes.

23 A. I don't recall the precise time, but in that time period.

24 Q. And the responsibilities for the head of financial services
25 role included driving Google's business by developing product

NADHRow3

Breslow - Direct

1 solutions for cloud, correct?

2 A. Correct.

3 Q. And it also involved you working with engineering to
4 develop products related to financial services and to find ways
5 to bring financial services providers to Google Cloud?

6 A. Yes.

7 Q. Is that correct?

8 Mr. Breslow, you hadn't expected to be considered for
9 this role, correct?

10 A. Yes.

11 Q. And you never asked to be considered for the role, correct?

12 A. Yes.

13 Q. And no one interviewed you for the role, correct?

14 A. Correct.

15 Q. And you spoke to Mr. Shaukat and he just gave you the role,
16 correct?

17 A. No. He asked me — he said to me that with the arrival of
18 a new CEO for Google Cloud, the role had been open for a while.
19 And it was a time when, as the organization might be in
20 transition, would I consider taking on that role while the
21 organization sorted itself out? And so I said, if that's what
22 you think is an appropriate role for me, I'm happy to take it
23 on.

24 MR. CHIARELLO: Nothing further.

25 CROSS-EXAMINATION

NADHRow3

Breslow - Cross

1 BY MR. GAGE:

2 Q. Good morning, Mr. Breslow. It is still morning for a few
3 more.

4 Mr. Breslow, you were shown a short while ago
5 Plaintiff's Exhibit 37, and we don't need to put it up on the
6 screen. It was your offer letter. Do you remember that?

7 A. Correct.

8 Q. You were asked about a stock award. Do you remember that?

9 A. Yes, I was.

10 Q. Did that stock award vest over time?

11 A. Yeah, it vested 1/48. It was a four-year stock award, 1/48
12 each month for 48 months.

13 Q. When you left Google, did you forfeit any of the stock that
14 you had been granted by Google?

15 A. \$2 million worth.

16 Q. So you never saw the full value of that initial award,
17 correct?

18 A. That would be correct.

19 Q. I want to take a step back so the jury can understand a
20 little bit more about your background.

21 Where are you from, by the way?

22 A. So I am a native New Yorker, born and bred in Queens. Went
23 to Queens P.S. 26, J.H.S. 216, and the Bronx High School of
24 Science.

25 Q. And what's your educational background?

NADVROW4

Grannis - Direct

1 Q. And in January, offers were made to Ben Wilson, Jen
2 Bennett, Brian Steikes, and Jonathan Donaldson. Does that
3 sound about right?

4 A. Yeah, sounds right.

5 Q. And then Nick Harteau joined in early April 2017, is that
6 right?

7 A. Yeah, sounds about right.

8 Q. And all of those nine were hired into OCTO; correct?

9 A. Yes.

10 Q. And they were all hired using the same job description?

11 A. Yes.

12 Q. And that job with description and the role itself outlined
13 what's generally been referred to as three different pillars;
14 correct?

15 A. That's correct, yeah.

16 Q. For the record, what are those pillars?

17 A. Sure. The first pillar is customer impact, customer
18 expertise. This really manifested mostly as vertical expertise
19 in the early going.

20 Second bucket was engineering expertise, so deep
21 technical expertise in a field, such as AI or infrastructure.

22 And then the third was the evangelism, sharing what we
23 know and what we learn with the broad audiences.

24 Q. And together with evangelism, that also included thought
25 leadership as a third pillar; correct?

NADVROW4

Grannis - Direct

1 A. Yes, thought leadership, blogs, videos, conference
2 attendance, things like that.

3 Q. Okay. Now, all of the nine individuals that we just
4 discussed, they all reported to you; correct?

5 A. Correct.

6 Q. And they all had the same responsibilities?

7 A. Generally, all three were -- all three buckets were part of
8 their job responsibilities, but we certainly had higher
9 expectations or expectations that were level appropriate.

10 Because at that time, I mean, when we got to about
11 April, May, June, a year in, we had 30 people in the team that
12 ranged from Level 5, 6, 7, 8, and 9. So, of course, we would
13 have different expectations of Level 9 in terms of the impact
14 that they were able to create and their experience and
15 expertise than we would for a Level 6 or a 7 or Level 8.

16 Q. Between Level 8 and Level 9, prior to April/May 2017, you
17 didn't really know what the difference was between those two,
18 right? You were still sorting out that?

19 A. Yeah. What we had done is we had adopted -- it's a job
20 family. It's like a description of work to be done in our HR
21 system; so like a software engineer has a job family, or a
22 salesperson has like a job family. And it codifies their
23 responsibilities.

24 OCTO is an entirety new function. So we were just
25 trying to figure out, candidly, how adopting a job family from

NADVROW4

Grannis - Direct

1 one part of Google and bringing it over into engineering, how
2 that would even work. And so, yeah, at the time that we were
3 hiring, we had not yet hired and observed people in action, you
4 know, over a long period of time, to be able to go back and
5 update that ladder or that job family very specifically. So we
6 used one centralized role and then, based on experience,
7 expertise, likelihood to create, you know, impact across one or
8 multiple pillars, that's really what we were looking for in the
9 hiring process.

10 Q. Okay. So when you were hiring during that time frame, you
11 did not have a job ladder that had been adopted for OCTO;
12 correct?

13 A. We had a job ladder, but it only had one entry, because
14 again, we didn't know -- we didn't have the context for, you
15 know, should we have five levels, should we have four, should
16 we have three, should we have two.

17 Q. That was still being developed?

18 A. Absolutely.

19 Q. Now, I'm going to focus again on those nine people that
20 came in that time period. They all had generally the same
21 skill sets; correct?

22 A. That's not correct.

23 Q. Well, didn't they all need to have similar skill sets to be
24 able to meet the three pillars?

25 A. Well, I don't want to conflate job responsibilities and

NADVROW4

Grannis - Direct

1 skills and expertise that someone has coming in the door.

2 Because those can be two different things, and I'll give you an
3 example.

4 Scott Penberthy, he is a Ph.D. in computer science and
5 a deep AI expert, world expert in AI.

6 Let's see. Ben Wilson came from the energy sector and
7 was a world expert in application migration; led the first
8 migration of many applications, I think, at GE, like hundreds
9 of applications at GE into the public cloud. I think he's
10 still a reference for Amazon, as a matter of fact, which is
11 ironic.

12 So they all had these different backgrounds and
13 expertise.

14 And the composition of the team from the very
15 beginning, when we first envisioned it, was we would hire
16 people with a broad range of experience expertise, you know,
17 this kind of diverse skill set of we need people in AI, we need
18 people in networking, we need people in storage, we need people
19 who understand financial services, we need people who
20 understand energy, we need people who understand media and
21 telco.

22 So by definition, we were hiring people with
23 dissimilar backgrounds and expertise. When they came to the
24 team, over time they were expected to perform across those
25 three pillars of impact.

NADVROW4

Grannis - Direct

1 Q. Okay. I'm going to ask you a yes-or-no question.

2 A. Okay.

3 Q. Each of the candidates that were hired into the role at
4 that time needed to have similar skill sets to be able to meet
5 those three pillars; correct?

6 A. No.

7 Q. Okay. Let's go to your deposition. Do you recall having
8 sat for your deposition --

9 (Indiscernible crosstalk)

10 A. Recall sitting through a deposition, yes.

11 MS. GREENE: Okay. Let's go to 50, page 50, lines 18
12 through 23. Page 50, lines 18 through 23.

13 And go ahead, Mr. Yang.

14 (Video played)

15 Q. Okay. There was an objection, but your answer there at
16 your deposition was yes; correct?

17 A. That was, yeah.

18 Q. And that was the testimony that you gave under oath at your
19 deposition?

20 A. It was.

21 Q. Now, you used the same interview questions with each of
22 those nine candidates during that time; correct?

23 A. Yes.

24 Q. And if we can, let's go to Plaintiff's Exhibit 93. This is
25 the L8 assessment -- L8 plus assessment-based interview

NADVROW4

Grannis - Direct

1 questions that were used for the hiring of those technical
2 directors into OCTO; correct?

3 A. Yes. These would have been similar across all candidates.

4 Q. Okay.

5 MS. GREENE: And if we can just go to the next page,
6 as well, Mr. Yang. And then to the final page for the jury.

7 Q. So this included leadership questions, Googliness
8 questions, and GCA questions; correct?

9 A. Correct.

10 Q. And what is GCA?

11 A. It's general cognitive ability.

12 Q. Okay. And so these types of questions, leadership,
13 Googliness, GCA, those are pretty standard for at the L8 plus
14 level; correct? I mean, in other words, leadership,
15 Googliness, and GCA are something that's asked of all
16 senior-level candidates across Google; correct?

17 A. They are the same categories.

18 Q. Okay. And if we go to the first page, this is L8 plus;
19 correct? There weren't a separate set of questions for L8 and
20 a separate set of questions for L9?

21 A. No. L8 plus, I think at the time these would have been
22 relevant to L8, L9, that's why it has the plus after it.

23 Q. Now, each of those nine were all hired for the same role;
24 correct?

25 A. The technical director role, yeah.

NADVROW4

Grannis - Direct

1 Q. And it's definitely true that everyone was being hired for
2 the same role, technical director solutions; correct? Of those
3 nine?

4 A. Of the people you mentioned, yes. We did have different
5 roles. We had some ops roles; we had, like, executive support,
6 things like that.

7 Q. The technical director position, it was scoped for between
8 Level 8 and Level 9; correct?

9 A. Correct.

10 Q. And the job ladder that you were developing didn't go
11 beyond Level 8; correct? At that time?

12 A. At the time, correct.

13 Q. And, in fact, at that time, again, the late 2016/early 2017
14 period, there was less definition in the job ladder at those
15 higher levels; correct?

16 A. Yeah. We'd been operating for a year-ish, so certainly
17 still learning; in fact, we still are.

18 Q. Now, if it we can go to Plaintiff's Exhibit 8. And this is
19 email that you're copied on from August 28th, 2017; correct?

20 A. Yeah.

21 Q. And it's from Melissa Lawrence, who was your HR lead in
22 OCTO for OCTO; correct?

23 A. Yes.

24 Q. And those names that are mentioned here, those were the
25 technical directors in OCTO; correct?

NADVROW4

Grannis - Direct

1 A. Yes.

2 Q. Okay. And if we can pull out Ms. Lawrence's email, "Hi
3 all," through her signature.

4 She says: One of you asked, but for the benefit of
5 all, there is very little documented for L8 plus expectations
6 at Google for general leveling. This is the best guide
7 available for generic engineering.

8 Was OCTO generic engineering?

9 A. Yes.

10 Q. Did it have an engineering component?

11 A. Yes.

12 Q. Was it limited to just an engineering component; correct?

13 A. Well, we were in the engineering hierarchy, so that's what
14 these job families are tied to. So like we have a sales
15 hierarchy, and there are job families that tie to a sales
16 hierarchy. And there's an engineering hierarchy, and there are
17 job roles -- this was specifically actually taken -- this job
18 family originally existed in go-to-market, which is kind of
19 like sales and marketing. And it was brought to engineering to
20 focus on engineering. So it was primarily engineering.

21 Q. OCTO had not adopted an engineering leveling guide or job
22 ladder for itself at that point in time; correct?

23 A. Correct.

24 MS. GREENE: Okay. We can take that down.

25 Q. You, yourself, in this time frame did not have a great

NADVROW4

Grannis - Direct

1 distinction between Levels 8 and 9; isn't that right?

2 A. I don't know what you mean by I didn't have a great
3 distinction between them.

4 Q. You really weren't sure what distinguished a Level 8 from a
5 Level 9 during this time frame; correct?

6 A. We certainly had a hypothesis in that we were testing it
7 based on the candidates that we -- that we were interviewing.
8 So we had an initial sense of it and then we were testing it
9 all along.

10 Q. Well, early on, during this time frame that we're talking
11 about, you didn't have a super strong sense of what
12 distinguished a Level 8 and a Level 9; correct?

13 MR. GAGE: Objection. Vague, your Honor.

14 THE COURT: Sustained.

15 Q. Mr. Grannis, do you recall being interviewed by employee
16 relations at Google in connection with this matter?

17 A. Yes. Maybe. I think. It's been a long -- it's been a
18 long time, so probably.

19 Q. You're not sure if you were interviewed or not?

20 A. By employee relations specifically related to this,
21 probably.

22 Q. Do you recall meeting with Ashley Tessier and having two
23 people there and them taking notes?

24 A. Oh, yeah, that sounds familiar, yeah.

25 Q. That was "yeah"; correct?

NADVROW4

Grannis - Direct

1 of her level at the time, you said no assessment.

2 Do you also recall saying: All of our hires in OCTO
3 early on in building the function didn't have a super strong
4 sense, didn't know Level 8s from 9s; didn't say we are only
5 going to hire 8s, etc., take a person's qualifications and
6 skills and run through the process, and then have a
7 recommendation on the other side. Didn't have any preconceived
8 notions about level; had only been at Google at the time for
9 one year; didn't have a straight super-calibrated reference
10 frame.

11 Do you recall in sum or substance saying that to ER?
12 A. I think it's absolutely fair to say that, because we had
13 not -- we hadn't hired a bunch of people; this was a brand-new
14 ladder. It was a new function within engineering. We
15 absolutely couldn't be super confident in all aspects.

16 But as we started hiring people, especially when we
17 were getting to that stage, I mean, we had already had 17, 18,
18 19, 20 people by the time we were hiring most of the external
19 candidates. We definitely started to see -- we started to
20 learn a little bit more about what we were looking for.

21 So for example, when we first started, we didn't know
22 what the balance or how we would think about impact for someone
23 coming in. Would they have more impact or the ability to
24 create, like, stronger impact early on if they were a little
25 more on the engineering side, or are they a little bit more on

NADVROW4

Grannis - Direct

1 the customer side. We didn't know that.

2 But it certainly became clear, you know, six months,
3 five months, six months in, attributes that would make someone
4 more effective or less effective.

5 Q. The people who joined you from internal -- internally in
6 Google, their levels were already preset; correct?

7 A. Correct.

8 Q. So you didn't make any leveling decisions around that
9 group; correct?

10 A. Correct.

11 Q. So the first group you were making leveling decisions about
12 were those eight or nine -- the nine folks we talked about,
13 Evren through Nick Harteau; correct?

14 A. Correct.

15 Q. And you'd never hired someone externally where you were
16 making the leveling decision up until that point in time. And
17 at that point in time, you didn't know what distinguished a
18 Level 8 from a Level 9; correct? You were still figuring it
19 out?

20 A. We were still figuring it out.

21 Q. And you weren't provided with any sort of leveling guide;
22 correct?

23 A. There was no leveling guide for that position in
24 engineering.

25 Q. And you weren't provided with any sort of metrics that

NADVROW4

Grannis - Direct

1 equated years of experience to a particular level; correct?

2 A. We didn't have that, no.

3 Q. And those first eight or nine people, you have less of a
4 sense of the differences between what would make one an 8 and a
5 9; correct?

6 A. No, we were still figuring it out.

7 Q. The additional expansion of the team from an external hire
8 perspective happened following additional budget being
9 allocated to the group; correct?

10 A. Yeah. Original plan was to have roughly 10 to 12; and it
11 was proving so in demand that we expanded it. We had almost --
12 by August of that year we probably had 30, 32, 34 people,
13 something like that.

14 Q. Okay. So there was a first wave and then a second wave;
15 correct?

16 A. Yeah.

17 Q. And it was that first wave where you didn't have the
18 calibrated sense of the L8 and L9. And by the time you started
19 with the second wave, you had a better sense; correct?

20 A. Oh, I'm sorry. I thought you meant -- by "wave," I thought
21 you meant like the internal versus external. The first wave
22 was the internal hires; we hired 17 people in six months
23 internally. The second wave I was thinking of is the external
24 hires.

25 Q. But you already testified that those external hires, you

NADVROW4

Grannis - Direct

1 didn't have a strong sense at that time; correct?

2 A. For the external hires, because all the other ones had come
3 through with their levels, yes, that's correct.

4 Q. Now, your job in the hiring process was to ensure that the
5 candidates were qualified at the L8 plus level; correct?

6 A. Correct.

7 Q. You didn't make the final leveling decision, you just made
8 a recommendation; correct?

9 A. I don't think -- I'm just trying to think back. Like
10 discrete leveling recommendations -- my job was really to
11 confirm or if there was like an issue.

12 So let's say in the process of an interview, let's say
13 we were given someone who, hey, we think that this person
14 should be -- you know, this might be interviewing for L9.
15 Well, if someone is going to be interviewing for L9, we'd have
16 significant expectations around, you know, their expertise,
17 background, and what they'd be able to create in terms of
18 impact right away.

19 And so throughout the hiring process, you know, there
20 would be that kind of, like, set looking for those
21 expectations. Of course, as you mentioned before, we were
22 still trying to figure it out. But if someone was coming
23 through as an L8, we'd also have certain expectations. We'd be
24 looking for their acumen along these dimensions that we thought
25 would match with an L8.

NAIHR0w1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 ULKU ROWE,

4 Plaintiff,

5 v.

19 Civ. 8655 (JHR)

6 GOOGLE LLC,

7 Defendant.

Trial

8 -----x

New York, N.Y.
October 18, 2023
8:50 a.m.

10 Before:

11 HON. JENNIFER H. REARDEN,

12 District Judge
13 -and a jury-

14 APPEARANCES

15 OUTTEN & GOLDEN, LLP
Attorneys for Plaintiff

16 BY: CARA E. GREENE
GREGORY S. CHIARELLO
17 SHIRA Z. GELFAND

18 PAUL HASTINGS LLP
Attorneys for Defendant

19 BY: KENNETH W. GAGE
SARA B. TOMEZSKO

20 Also Present: Vincent Yang, Paralegal (Outten & Golden)
21 Andrew Velazquez, Google Rep.
22 Jean Gutierrez, Paralegal (Paul Hastings)

NAIVROW2

Harteau - Direct

1 functions, the three pillars we talked about while you were
2 managing that group?

3 A. I was, yes.

4 Q. Mr. Harteau, who were the other director-level technical
5 directors working in OCTO when you joined?

6 A. I'm not sure I can produce an accurate list, but I
7 certainly remember working with Ben Wilson, Evren, Jonathan
8 Donaldson, and Ulku was there when I joined, as I remember.

9 Q. And the individuals that you recall, did you know what
10 their level was?

11 A. I didn't.

12 Q. Did you have any belief as to what their level was?

13 MS. TOMEZSKO: Objection. Relevance.

14 THE COURT: Sustained.

15 Q. Well, did you know one way or the other what level they
16 were, whether Level 8 or Level 9?

17 MS. TOMEZSKO: Objection. Asked and answered.

18 THE COURT: I'll allow it.

19 A. I honestly don't recall. In Google culture, like, there is
20 a lot of discussion of levels. And I wouldn't -- it wouldn't
21 surprise me that I learned that over the course of the water
22 cooler conversation. But I don't have any specific memory of
23 that now.

24 Q. Okay. Let's talk about Ms. Rowe a little bit.

25 Did you and Ms. Rowe have occasion to work together in

NAIVROW2

Harteau - Direct

1 any capacity?

2 A. I don't think we worked together directly. The places
3 where I remember spending time with Ulku were there were
4 conferences that we both attended and spoke out and normal team
5 collaboration. You know, we went to the same meetings, we
6 talked about the same stuff.

7 I think Ulku and I probably talked a little bit more
8 than some of the other folks, as we were the two -- two folks
9 stationed in New York City.

10 Q. And did you have an opportunity to observe the work that
11 she did separate from that?

12 A. I would say I observed some of her work. I don't think it
13 was exhaustive, but certainly some.

14 Q. From what you were able to observe on a day-to-day basis,
15 how did her work compare with yours?

16 A. Similar. You know, we were doing the same sort of work in
17 the same sort of circumstances.

18 Q. You and Ms. Rowe both worked with customers?

19 A. Correct.

20 Q. And you and Ms. Rowe both worked with engineering and
21 project management teams?

22 A. Correct.

23 Q. And both of you engaged in thought leadership on behalf of
24 Google?

25 A. Correct.

NAIVROW2

Harteau - Direct

1 Q. Both of you did public speaking?

2 A. Yes.

3 Q. Based on your interactions and your observations of
4 Ms. Rowe, how knowledgeable was she with respect to Cloud and
5 its relationship to financial services?

6 A. She seemed quite knowledgeable. I am not an expert in that
7 myself, so, you know, I wouldn't be the authority on that. But
8 she seemed as knowledgeable as the rest of us were and our
9 specialties.

10 Q. Mr. Harteau, part of the technical director role was to
11 work with and gain support from the engineering teams; is that
12 correct?

13 A. That's correct.

14 Q. And in your observation, how successful were the technical
15 directors with whom you worked in getting the engineering teams
16 invested in their projects?

17 A. I think that was one of the harder parts of the job. And I
18 think we all struggled with that -- that aspect of it.

19 Q. Would you say that's a struggle that all the technical
20 directors shared?

21 MS. TOMEZSKO: Objection. Foundation.

22 THE COURT: Can you rephrase please.

23 Q. In your observation, was that an issue that all the
24 technical directors you observed had?

25 A. Can you ask that again? Sorry.

NAIHR0w3

"Wilson"

1 executives and other customers. That's what I understood they
2 were looking for.

3 "Q. Did anyone explain to you specifically with respect to
4 what level you would be what factors or criteria beyond that
5 they were considering?

6 "A. No.

7 "Q. Did anyone at any point in time tell you that your level
8 was dictated by your years of industry experience?

9 "A. No.

10 "Q. At any point in time in describing for you what
11 experience, etc., needed to be in the office of the CTO, did
12 anyone mention to you levels?

13 "A. Never. Levels — levels were never discussed.

14 "Q. During the time that you were in the office of the CTO,
15 did you ever work with Ms. Rowe?

16 "A. Yes.

17 "Q. In what capacity did you have a chance to work with her?

18 "A. Just things on, like, presentations, and so forth. If I
19 was giving a presentation, I would look for her advice on,
20 like, what she's presented. She was a prolific presenter on
21 behalf of Google. I was not. So I looked to her on kind of
22 like what she presented on and how she did it and what were the
23 things Google was looking for for us to present on.

24 "Q. What was your understanding of what Ms. Rowe's role was at
25 the time when you were both in the CTO?

NAIHR03

"Wilson"

1 "A. Same as mine but for the financial vertical.

2 "Q. What was your understanding of her background?

3 "A. A deep financial services background working with C-level
4 executives, go and build out financial products customers would
5 use.

6 "Q. Do you know how many years of financial services industry
7 experience she had?

8 "A. No.

9 "Q. Was that something that was kind of a topic of discussion
10 in OCTO, the number of years of experience that people had?

11 "A. Not as far as I knew.

12 "Q. During the time when you had the opportunity to interact
13 with Ms. Rowe, did you find her to be professional?

14 "A. Yes.

15 "Q. Did you find her to be knowledgeable?

16 "A. Yes.

17 "Q. Did you find her to be knowledgeable with respect to
18 financial services?

19 "A. Yes.

20 "Q. Did you find her knowledgeable with respect to
21 engineering?

22 "A. Yes.

23 "Q. Did you find her knowledgeable with respect to project
24 management?

25 "A. Yes.

NAIHR0w3

"Wilson"

1 "Q. Did you personally have any criticisms of her performance?

2 "A. No.

3 "Q. Did you ever hear anyone else express any criticisms of
4 her performance?

5 "A. No.

6 "Q. Now, you had mentioned earlier you had a discussion with
7 her about leveling at some point in time, is that correct?

8 "A. I'm not sure if I said that earlier, but, yes, at one
9 point in time, she and I had had a discussion around what
10 levels we were. Yes, that is correct.

11 "Q. Did you tell her that you were a Level 9?

12 "A. Yes, I did.

13 "Q. Did she seem surprised to hear that?

14 "A. Yeah. I know her well enough to know that she was
15 surprised, yes.

16 "Q. Did she say anything to you about that, about you being a
17 Level 9?

18 "A. Yes. She asked why I would be a Level 9 and she would be
19 a Level 8.

20 "Q. Do you recall what you said?

21 "A. I — I was not involved in the hiring process, so I really
22 don't know. I also recall I said something to the effect that
23 I'd been a CTO of a \$5 billion software company and that I've
24 had some very kind of deep experiences in cloud. I said having
25 had the CTO title seems to matter something inside Google for

NAIHR03

"Wilson"

1 "Q. And there's also a second grant award in an aggregate
2 amount equal to \$450,000. Do you see that?

3 "A. Yes.

4 "Q. Do you know how that amount was determined?

5 "A. Because they — they realized how much money I was leaving
6 behind, and so that was sort of their attempts to help me out.

7 "Q. Just so we're clear, you never requested a particular
8 level, correct?

9 "A. No.

10 "Q. At the time you were being hired, nobody told you what the
11 levels of the other technical directors might be, correct?

12 "A. No.

13 "Q. In the office of the CTO, did you ever work with Ulku
14 Rowe?

15 "A. Yes.

16 "Q. In what capacity did you have an opportunity to work with
17 her?

18 "A. In external events, joint presentations, analyst events
19 that we presented, and sometimes I pulled her into an executive
20 briefing that I could use her help. Sometimes she pulled me
21 into some meetings that she could help me out — I could help
22 her out.

23 "Q. I know some of these are very obvious questions, but,
24 again, we have to get it for the record.

25 "What was your understanding of Ms. Rowe's role at the

NAIHR0w3

"Wilson"

1 time?

2 "A. She was a technical director in the office of the CTO.

3 "Q. So she was in the same role that you were in?

4 "A. Yes. We were all in the same role.

5 "Q. Did you at some point in time learn what her educational
6 background was?

7 A. During our personal conversations, we would chitchat, you
8 know, which schools we went, our families, and so forth.
9 Casual.

10 "Q. What did you understand about her educational background?

11 "A. That in — in — that — not in too many specific details
12 that, you know, she understood the domain, technical domain
13 that we were in, and that she had worked in the IT world of
14 fintech, and she understood how it works and how banks are
15 structured and how they operate, and so forth.

16 "Q. Did you know that she had a bachelor's and a master's in
17 computer-related technology?

18 "A. I believe she told me, but I don't remember exactly where
19 she got it, and so forth.

20 "Q. In your work with her, did you find her to be
21 professional?

22 "A. Very.

23 "Q. Did you find her to be knowledgeable?

24 "A. Yes.

25 "Q. Was she knowledgeable with respect to financial services?

NAIHRow3

"Wilson"

"A. Yes.

(Continued on next page)

NAIVROW4

"Eryurek"

1 "A. No.

2 "Q. Mr. Eryurek, have you heard the term 'senior director'
3 used in OCTO?

4 "A. We never used it, no.

5 "Q. So in your recollection, the term 'director' was the term
6 that was used in OCTO?

7 "A. We all -- we all had technical directors business cards
8 and so forth.

9 "Q. Did Ms. Rowe ever tell you in sum or substance, even if
10 she didn't use those exact words, that she thought she was
11 being treated differently as a woman?

12 "A. No.

13 "Q. From what you observed about the technical director role,
14 was it years of experience that was the most relevant or the
15 type of experience that was most relevant to the job?

16 "A. Probably a combination of both. And some had a lot more
17 years, and their roles were really big and broad and so forth.
18 Some others were maybe the types of the focus areas that they
19 had and what experience that they brought in.

20 "Q. So, in other words, years of experience was not a
21 determining factor in how someone could perform as a technical
22 director?

23 "A. Remember, I told you technical director was a title that
24 just about everyone used in the team; some with a lot less
25 experience and junior roles than I did, but they still called

NAIVROW4

"Eryurek"

1 themselves technical directors, which was fine for them because
2 that's sort of -- that helps excel communications of technical
3 directors and will do it.

4 And so years of experience mattered. What you did,
5 where you did, how you did, for whom you did definitely
6 mattered. But not everyone had that same kind of template
7 experience, because we all had technical director titles, but
8 we were different levels because of the experience that we had
9 in our pasts. Some was driven by years, some was driven by
10 what we have accomplished in our prior lives.

11 "Q. And is that something that was communicated to you or
12 something that you just --

13 "A. By virtue of -- of -- by virtue of talking to people, you
14 sort of gather that.

15 "Q. With respect to directors at L8 and above, did you have
16 any basis to know what their years of experience were and how
17 that related to their leveling?

18 "A. Not really.

19 "Q. Did it have any impact on what clients they worked on?

20 "A. No.

21 "Q. Did it have any impact on what external speaking
22 engagements they might work on?

23 "A. Absolutely not.

24 "Q. Did it have any impact on what internal products or
25 projects they might work on?

NAIVROW4

Beaupain - Direct

1 "A. No.

2 "Q. With respect again to the L8 and L9 directors, did the
3 years of experience impact their day-to-day work or the role in
4 any way?

5 "A. I wouldn't have guessed so, no."

6 MS. GELFAND: No further questions.

7 THE COURT: Thank you.

8 MR. CHIARELLO: Your Honor, our next witness is April
9 Beaupain.

10 THE COURT: Okay.

11 Mr. Chiarello, I intend to give the jury a lunch break
12 at 12:30.

13 MR. CHIARELLO: Okay. Thank you, your Honor.

14 APRIL BEAUPAIN,

15 called as a witness by the Plaintiff,

16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. CHIARELLO:

19 Q. Good afternoon, Ms. Beaupain.

20 A. Good afternoon.

21 Q. You are currently employed at Google?

22 A. Yes.

23 Q. And in 2018/2019, what was your role at Google?

24 A. I was an employee relations partner.

25 Q. And did you participate in an investigation in connection

NAIVROW4

Beaupain - Direct

1 chain; any human resources people partner or consultant; the
2 respect@team; and the compliance help line.

3 It's correct that an employee could use any of those
4 methods to register a concern; is that correct?

5 A. Based on what -- excuse me. Based on what you're showing
6 me, what it says, yes.

7 Q. And is it correct that those are ways that an employee
8 could raise a concern?

9 A. They are. I want to be thoughtful of at the time of -- in
10 2018, I can't recall whether, like, our compliance help line
11 was up and running; but yes, these are absolutely avenues that
12 someone can raise a concern.

13 Q. Better clarification.

14 MR. CHIARELLO: Mr. Yang, can we look above that at
15 the section that's marked "Retaliation."

16 Q. And Ms. Beaupain, this is Google's policy prohibiting
17 retaliation against employees who raise workplace concerns;
18 correct?

19 A. Yes.

20 Q. And this policy would apply to employees who raise concerns
21 of gender discrimination?

22 A. Yes.

23 Q. And it would apply to employees who raise concerns of pay
24 disparity?

25 A. Yes.

NAIVROW4

Beaupain - Direct

1 MR. CHIARELLO: Mr. Yang, can we take a look at the
2 fourth page of this document. And I want to call out the top
3 part of how a concern is handled. Not just the header, the
4 first two paragraphs underneath that.

5 Q. And while he's doing that, Ms. Beaupain, it was employee
6 relations' responsibility to investigate complaints of
7 discrimination; correct?

8 A. Yes, that's correct.

9 Q. Drawing your attention to the bottom paragraph,
10 Ms. Beaupain, it says: We'll also gather information about the
11 issue. To do that, we'll need to talk with you. During the
12 meeting there will generally be two members of the
13 investigations team in the room, one person will be taking
14 notes.

15 This is with respect to the complainant, but was it
16 also employee relations' policy to have two individuals in the
17 room for any interview?

18 A. Typically, that would be our approach. There could be
19 one-off exceptions to that, so I don't want to say they
20 unilaterally apply, but that was definitely best practices to
21 have two of the employee relations members in an interview or
22 in a discussion, yes.

23 Q. And was also the practice to have a person taking notes of
24 the interview?

25 A. Yes. I mean, again, there's always exceptions. I don't

NAIVROW4

Beaupain - Direct

1 know if this was actually just being thoughtful of this
2 language. I don't know when that was added as part of the
3 process or policy here. I don't know if it was in effect.
4 This has changed and grown as Google has grown, so I can't say
5 for sure that this was in the process in 2018. But that was
6 ER's practice where it made sense to have two individuals in
7 the interview when speaking with people.

8 Q. Okay. I just want to clarify. I thought you had said this
9 policy was in effect in the 2018/2019 period?

10 A. Thank you. Let me clarify.

11 The policy was in effect. Some of the details, how a
12 concern is handled, may have grown and changed as Google has
13 grown and our processes have grown.

14 Q. But it was the practice during the time Ms. Rowe's
15 complaint was investigated; correct?

16 A. Yes. Typically, we would have two people when conducting
17 an interview.

18 MR. CHIARELLO: Mr. Yang, you can take this down.

19 And can you please put up Plaintiff's 114. And I
20 guess just scroll through it so the witness can take a look.

21 Q. Ms. Beaupain, are you familiar with this document?

22 A. Mildly familiar, yes.

23 Q. It's a guide created by Google; is that correct?

24 A. I believe so, yes.

25 Q. And it's to assist employee relations when investigating

NAIHR05

Beaupain - Cross

1 Q. During this interview, did you find Ms. Burdis to be
2 credible?

3 A. Yes. I had no reason to disbelieve her during the course
4 of the interview.

5 Q. Now let's turn to the first page of these notes. And we
6 see here it says, "Ulku Rowe — 11/9/2018." Do you see that?

7 A. Yes.

8 Q. What does this reflect?

9 A. That would have been the closing — closing conversation,
10 the closeout with Ms. Rowe on that date.

11 Q. And during that closing conversation, did you share with
12 Ms. Rowe the findings of your investigation?

13 A. I did.

14 Q. There are several references here to talking points. Do
15 you see that?

16 A. Yes.

17 Q. The talking points that are referenced there, are those the
18 talking points that were put up on the screen just a few
19 minutes ago?

20 A. Yes, exactly.

21 MS. TOMEZSKO: Could we just pull those up quickly,
22 Jean. I think it's Plaintiff's 89.

23 Q. Now, Ms. Beaupain, did you, to the best of your
24 recollection, actually communicate to Ms. Rowe all of the
25 talking points that you see on this page here?

NAIHR05

Beaupain - Cross

1 A. Yes.

2 Q. And in particular, the one that was pulled out earlier,
3 tech versus non-tech experience was the most heavily considered
4 factor when gauging L8 versus L9, do you see that?

5 A. Yes.

6 Q. Do you recall whether you communicated that specific point
7 to Ms. Rowe in the meeting?

8 A. Yes, I did, uh-huh.

9 Q. Now, when you concluded your investigation, did you have
10 any reasonable basis to believe that gender played a role in
11 Ms. Rowe's leveling at hire?

12 A. No.

13 Q. Did you have any basis to believe that her leveling was in
14 any way unfair?

15 A. No.

16 MS. TOMEZSKO: No further questions.

17 MR. CHIARELLO: No redirect, your Honor.

18 THE COURT: OK. Ms. Beaupain, you're excused. Thank
19 you.

20 (Witness excused)

21 MR. CHIARELLO: At this point, your Honor, we'd like
22 the Court to read the stipulation of undisputed fact to the
23 jury.

24 THE COURT: Members of the jury, this is a stipulation
25 of uncontested fact that the parties have handed to me. That

NAIHR05

Tessier - Direct

1 means that it is a fact on which the parties have agreed.

2 As of September 19, 2019, Google Cloud's senior
3 leadership was aware of plaintiff's filed complaint and the
4 allegations contained therein.

5 MR. CHIARELLO: Thank you, your Honor.

6 Call Ashley Tessier.

7 THE COURT: OK.

8 THE DEPUTY CLERK: You could step forward.

9 ASHLEY ELIZABETH TESSIER,

10 called as a witness by the Plaintiff,

11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. CHIARELLO:

14 Q. Good afternoon, Ms. Tessier.

15 A. Good afternoon.

16 Q. I'm going to endeavor to be brief. We'll see how that
17 goes.

18 You are currently an employee relations director at
19 Google, is that right?

20 A. Yes, I am.

21 Q. And did you hold that role in late 2019 and 2020?

22 A. I held the role. My title changed to director in late
23 2021. I was an employee relations manager at the time that you
24 just stated.

25 Q. As an employee relations manager in the 2019/2020 time

NAIHR05

Tessier - Direct

1 frame, you conducted interviews in connection with this lawsuit
2 that Ms. Rowe filed, correct?

3 A. I did.

4 Q. And you did so in connection with Google's policy regarding
5 investigating complaints of discrimination, correct?

6 A. More specifically, we have a policy against harassment,
7 discrimination, retaliation, and standards of conduct. So I
8 was looking into it with respect to that policy.

9 Q. And you interviewed witnesses or employees — individuals
10 in connection with that complaint, correct?

11 A. I did.

12 Q. Notes were prepared in connection with that complaint or
13 the interviews that were conducted?

14 A. Notes were taken from the interviews conducted, yes.

15 Q. And those notes were provided to Google's legal counsel, is
16 that correct?

17 A. Yes.

18 Q. It was important that those notes be accurate, correct?

19 A. Yes.

20 Q. And you would agree that both you and the other interviewer
21 took the responsibility to create accurate notes seriously?

22 A. Of course. Let me just clarify. The notes are not a
23 verbatim transcript. So they serve a purpose in the course of
24 the investigation, and we absolutely took that responsibility
25 seriously.

NAIVROW6

1 THE COURT: Okay. That sounds like a good plan.

2 (In open court)

3 THE COURT: Are we ready?

4 MS. GREENE: Yes. I'm sorry, we're ready.

5 THE COURT: Okay.

6 MS. GREENE: Ms. Gutierrez.

7 (Videotaped Deposition of Jennifer Burdis played)

8 MS. GREENE: Your Honor, I would just ask that you
9 note, as you did with Mr. Eryurek and Mr. Wilson's deposition
10 testimony, that these reflect the deposition designations of
11 both defendant and plaintiff.

12 THE COURT: Yes. Members of the jury, please take
13 note of that. Thank you.

14 All right.

15 MS. GREENE: Your Honor, plaintiff rests her case at
16 this time.

17 THE COURT: Okay. Thank you, Ms. Greene.

18 All right. Members of the jury, we are going to do
19 something now that we haven't done in any previous day, and
20 that is we're going to take another break. Because plaintiff
21 has rested her case, and the lawyers need a few minutes to sort
22 of organize and plan their next steps. So I anticipate that
23 you'll be out of the room about 20 to 25 minutes.

24 Does that sound right, counsel?

25 MR. GAGE: 25.

NAIVROW6

1 THE COURT: Okay. All right.

2 So, well, let's say we'll be back here at about 4:10
3 to 4:15. Ms. Williams will come get you then.

4 And please do not talk to each other or anyone else
5 about the case. And please don't do any research about the
6 case while you're on break. Thank you.

7 (Jury not present)

8 THE COURT: Okay. You can be seated.

9 We're going to take a break too, right?

10 MR. GAGE: Yes. That's what I thought, your Honor.

11 THE COURT: Okay. That sounds right. All right.

12 MS. GREENE: Your Honor, what time do you want us
13 back?

14 THE COURT: Can we do 15 minutes? Okay. So call it
15 4:05, with the goal of getting the jury back in here at 4:15,
16 and your witness will be ready.

17 MR. GAGE: Yes, he should be here. He may already be
18 here.

19 THE COURT: Okay. Very good.

20 (Recess)

21 THE COURT: So, Mr. Gage, this is Google's elevator
22 pitch of the Rule 50 motion, right? And then after we release
23 the jury, we'll hear more -- or we'll hear more from Ms. Greene
24 or Mr. Chiarello.

25 MR. GAGE: I assumed the elevator pitch. I didn't

NAIVROW6

1 realize you were going to, sort of, allow us to continue.

2 THE COURT: If you like. If you like. I'm just
3 mindful of the jury.

4 MR. GAGE: To be sure.

5 THE COURT: Okay.

6 MR. GAGE: To be sure.

7 And I appreciate your Honor letting me make a record
8 after they've rested and before we proceed.

9 THE COURT: Yes, of course.

10 MR. GAGE: May I, your Honor, start the elevator
11 pitch?

12 THE COURT: Yes.

13 MR. GAGE: Your Honor, the first claim I'd like to
14 talk about is Ms. Rowe's retaliation claim. The law is clear
15 she needs to prove that she had a subjectively and objectively
16 reasonable belief that there was illegal conduct going on. And
17 we respectfully submit that there is no evidence to suggest
18 that. Ms. Rowe herself, her entire belief that there was
19 something wrong with her leveling is because she thinks she's
20 as qualified as other people. And that's not enough. And she
21 told -- we heard it today, the evidence shows clearly, she told
22 the investigator, Google's investigator, that she did not have
23 any reason to believe that gender played a role in her
24 leveling. So first and foremost, we don't think that plaintiff
25 has established a *prima facie* case of protected activity.

NAIVROW6

1 Second, on the retaliation claim, there is no evidence
2 in the record whatsoever that her alleged protected activity
3 was in any way a factor – in any way a factor – in any of the
4 things that she claims were retaliatory.

5 And let's list them:

6 One, her not getting the financial services vertical
7 lead role. The evidence consistently and undisputedly shows
8 that from the very beginning, Mr. Shaukat was not impressed --
9 as impressed by her as he was by other candidates. It never
10 changed. Despite the fact that she had multiple opportunities
11 to change his view, his opinion was consistent. His opinion
12 was the reason why she didn't get the job. And there's no
13 evidence to suggest that his learning that she had concerns
14 about her leveling had anything to do with that decision.

15 The retaliation claim relating to the vice president
16 for financial services sales job. Similarly, the evidence is
17 undisputed that Ms. Kliphouse made the decision not to consider
18 Ms. Rowe further after she had spent time with her over coffee.
19 And the evidence is undisputed that she already had a preferred
20 candidate, a senior executive at Citigroup, and she didn't want
21 to take -- and the evidence is undisputed, Mr. Vardaman said
22 it, she didn't want to take any further time considering other
23 candidates. So we believe there's no evidence of causation on
24 the retaliation claim.

25 THE COURT: Mr. Gage, let me stop you one second.

NAIVROW6

1 From here, I don't want you to do an argument that's
2 this fulsome and then not hear from Ms. Greene or Mr. Chiarello
3 until after. So I think you should go to a higher level now.

4 MR. GAGE: Okay.

5 THE COURT: Let's do that.

6 We also have the jury waiting.

7 MR. GAGE: I'm sorry. I was trying to keep it at a
8 high level, Judge, not high enough apparently. I'll be quick.

9 On the discrimination claim, your Honor, same thing
10 about the leveling. We don't think there's any evidence
11 whatsoever that gender played any role whatsoever in the
12 leveling. There is no discrimination claim on the vice
13 president financial services sales job, that's only a
14 retaliation claim. And again, similarly, there's no evidence
15 that gender played a role in Mr. Shaukat's decision about the
16 financial services vertical lead role.

17 Your Honor, on the Labor Law 194 claim, first and
18 foremost, we believe the evidence clearly shows Ms. Rowe was
19 doing something differently than Mr. Breslow. Hers was an
20 engineering job, his wasn't. The evidence we've heard between
21 Ms. Rowe and Mr. Harteau clearly shows he was doing different
22 work than her, so she can't establish that *prima facie* case.

23 At the second level of the analysis, your Honor, we
24 believe that level is a *bona fide* factor, other than sex. And
25 if the plaintiff cannot prove – which we don't think she has –

NAIVROW6

1 that gender played a role in leveling, as a matter of law, your
2 Honor, and as a matter of law of the case, level is a *bona fide*
3 factor other than sex. And for that, your Honor, I refer to
4 Judge Schofield's decision denying the plaintiff's motion for
5 summary judgment. Judge Schofield said that if level is not
6 tainted by bias, gender bias, that would be a basis for finding
7 in Google's favor in this case.

8 Finally, your Honor, last part of my pitch, there is
9 absolutely no evidence to support the claim of willfulness or
10 reckless disregard for Ms. Rowe's rights. And since your Honor
11 wanted me to keep it high level, I will stop there.

12 THE COURT: Okay. Thank you.

13 So we will pick up with that that after the witness is
14 out of the box and the jury has been released for the day.

15 Why don't we bring in the witness now.

16 (Jury present)

17 CHRIS HUMEZ,

18 called as a witness by the Defendant,

19 having been duly sworn, testified as follows:

20 THE COURT: Mr. Gage, just for planning purposes, I
21 intend to release the jury at 4:45.

22 MR. GAGE: Got it.

23 THE COURT: Thank you.

24 MR. GAGE: I will plan accordingly, Judge.

25 DIRECT EXAMINATION

NAIHR07

1 it should be obvious, but there's ample evidence with respect
2 to gender bias and motivation. Ms. Rowe has testified as the
3 only woman in the technical director Level 8 and Level 9, and
4 the differential treatment itself is enough by which a jury
5 could determine that gender played a role.

6 A jury could also look at the reasons asserted by
7 defendant for the differentiation between the two, and if the
8 jury finds that's pretextual, that it's not really the reason,
9 the jury can draw an inference of unlawful motivation,
10 discriminatory motivation. And so those are just two of the
11 means by which a jury could find gender bias to exist.

12 The standard, again, under the New York City Human
13 Rights Law for issuing a summary judgment or directed verdict
14 in defendant's favor is much more in favor of the employee.
15 There has to be no way by which a jury could conclude that —
16 that gender played a role, and here — and the decisions —
17 and, your Honor, I could find it for you. I don't have it.
18 It's in — or another decision that's critical to this, but the
19 decisions make clear that it is a much lower standard, and it's
20 whether gender played any role in the plaintiff being treated
21 less well.

22 So there's two important distinctions, one is whether
23 it played any role — not a significant role, not the primary
24 role, any role. And the standard for adverse action is less
25 well, were they just treated in any way less well, and that's

NAIHR07

1 sufficient to state a claim for discrimination under the New
2 York City Human Rights Law.

3 So, again, for those reasons we respectfully request
4 that the Court deny defendant's motion.

5 THE COURT: OK. I am now going to need a couple of
6 minutes so, I don't think it's long enough that you'll want to
7 leave the courtroom, but I'll be back shortly. Thank you.

8 (Recess)

9 THE COURT: Please sit down.

10 The defense has moved, as is proper at this stage of
11 the case, under Rule 50 for a judgment on the grounds that
12 there is not sufficient evidence on which a jury could find in
13 Ms. Rowe's favor on her claims of equal pay, gender
14 discrimination, and retaliation, as well as on the question of
15 willfulness. I'm first going to address Ms. Rowe's claims and
16 then take up willfulness in regard to damages.

17 Furthermore, in resolving a Rule 50 motion, all
18 evidence is to be construed in the light most favorable to the
19 plaintiff as the nonmoving party, and all reasonable inferences
20 shall be drawn in favor of the plaintiff as the nonmoving
21 party. The ruling that I am about to make needs to be read in
22 that spirit. I am not resolving the case here. I am simply
23 resolving a Rule 50 motion.

24 I am denying the Rule 50 motion and letting the case
25 go to the jury. I have paid careful attention to the evidence

NAIHR07

1 in this case and have greatly benefited from the work of
2 counsel on both sides. I will start with this.

3 I have no doubt that a jury could find for the defense
4 in this case. There is certainly an evidentiary basis for
5 that. However, the issue here is not whether a jury could find
6 for the defense, it is whether the jury could find for
7 plaintiff. My view is that, on the record that has developed,
8 there is sufficient evidence on which a jury could return a
9 plaintiff's verdict. I'm going to start with the Section 194
10 claim.

11 There is evidence from which the jury could find that
12 Ms. Rowe and Mr. Harteau were doing equal work. For one thing,
13 evidence has been adduced establishing that Ms. Rowe and
14 Mr. Harteau were hired for the same role, that is, technical
15 director in OCTO. Not only that, but Mr. Harteau himself
16 testified that his and Ms. Rowe's work was "similar."
17 Specifically, they "were doing the same sort of work in the
18 same sort of circumstances." And I'm citing here to page 839,
19 lines 3 through 4, of the transcript.

20 I likewise find that a jury could find that Google
21 retaliated against Ms. Rowe. I'm going to start by addressing
22 Ms. Rowe's efforts to obtain the FSVL role.

23 Among other things, on August 28, 2018, Ms. Rowe made
24 a complaint to Melissa Lawrence expressing concern that men had
25 been leveled at Level 9, specifically noting that "I was told

NAIHR07

1 that everyone hired for the role was being hired at a Level 8.
2 I later learned that my male peers were hired at Level 9," and
3 this is reflected in PX 42. Then just days later, Mr. Vardaman
4 wrote in an internal report "sounds like she," meaning
5 Ms. Rowe, "is not viable for the role." I'm citing to, among
6 other things, PX 69 at page 97.

7 With respect to the VP sales position, a jury might
8 find noteworthy the temporal proximity between Ms. Rowe's
9 complaint and the alleged retaliatory action. Ms. Rowe filed
10 her complaint in this court in September 2019, and several
11 months later, in February 2020, Ms. Piazza was hired for the
12 sales role. Furthermore, the fact that it was Mr. Vardaman
13 acting as the internal recruiter for both this position and the
14 earlier FSVL role is a link that the jury might choose to
15 credit.

16 In regard to Ms. Rowe's gender discrimination claim, I
17 conclude that a jury could find that Ms. Rowe was similarly
18 situated to Mr. Harteau among other male L9 colleagues but was
19 treated less well, including because of her pay.

20 In sum, I conclude that there is sufficient evidence
21 to go to the jury on the claims just addressed. We will see
22 which way they ultimately come out.

23 As to the question of willfulness, in regards to
24 damages, I likewise find that there is sufficient evidence to
25 submit this question to the jury. The jury could find that

NAIHR07

1 Google knew that Ms. Rowe was performing equal work to her
2 alleged male comparators yet was being paid less.
3 Specifically, Ms. Rowe made an internal complaint that she was
4 paid less and she filed a lawsuit, such that a jury could find
5 that, despite Google's knowledge of both that internal
6 complaint and court complaint, they continued paying her less.
7 At the very least, a jury could find that Google was reckless
8 in that regard. So damages will go to the jury to decide.

9 I therefore deny the Rule 50 motion. In the event of
10 a plaintiff's verdict, defendant may submit a post-verdict
11 motion at that point. Everyone will then be able to proceed
12 with the benefit of time and reflection, the opportunity to
13 carefully examine the transcript and evidence, the ability to
14 advance applicable authorities and fleshed out arguments, and
15 so forth.

16 Now I think we should talk about tomorrow. So
17 tomorrow we will have — we will convene in here at 8:30 a.m.,
18 and we will have a charging conference. We are going to be
19 working overnight on the charges, and we will send them to you
20 from chambers email before the charging conference so that you
21 can review them.

22 What are you thinking about time at this point for
23 tomorrow in terms of the presentation of evidence?

24 MR. GAGE: Could I just raise one question in the
25 charging conference — or rather, make a point?

NAIHR07

1 THE COURT: Yes.

2 MR. GAGE: In light of the evidence, your Honor, we
3 would ask that the verdict form place the discrimination
4 claim first. And I'm not trying to argue the point, but I just
5 want to make the suggestion that we are asking for is that, on
6 the verdict form, the jury first answer the question on the
7 discrimination claim. And you will see our proposed verdict
8 form asks them to determine whether the plaintiff has proved by
9 a preponderance of the evidence that gender was a reason for
10 her level, because if they don't find that, if they don't find
11 that she proved that, it has implications for the New York
12 Labor Law claim inasmuch as it is, again, referring to Judge
13 Schofield's decision on summary judgment, a bona fide factor,
14 and we believe there's ample evidence of business necessity,
15 etc., etc. So —

16 THE COURT: OK. Ms. Greene.

17 MS. GREENE: Yes, your Honor. We would absolutely
18 oppose that because it's intended to conflate the two issues.
19 Equal Pay Law does not require any sort of gender motivation in
20 the decision, and by putting the gender claim first, it would
21 confuse the jury by suggesting that gender somehow is relevant
22 to the finding of an Equal Pay Law claim. The affirmative
23 defense is an affirmative defense and should be treated
24 separately from the jury's finding of the *prima facie* case on
25 liability.

NAJVR01

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 ULKU ROWE,

4 Plaintiff,

5 v.

19 Civ. 8655 (JHR)

6 GOOGLE LLC,

7 Defendant.

Trial

8 -----x

New York, N.Y.
October 19, 2023
8:57 a.m.

10 Before:

11 HON. JENNIFER H. REARDEN,

12 District Judge
13 -and a jury-

14 APPEARANCES

15 OUTTEN & GOLDEN, LLP
Attorneys for Plaintiff
16 BY: CARA E. GREENE
GREGORY S. CHIARELLO
17 SHIRA Z. GELFAND

18 PAUL HASTINGS LLP
Attorneys for Defendant
19 BY: KENNETH W. GAGE
SARA B. TOMEZSKO

20 Also Present: Vincent Yang, Paralegal (Outten & Golden)
21 Andrew Velazquez, Google Rep.
22 Jean Gutierrez, Paralegal (Paul Hastings)

NAJHRow2

Stevens - Direct

1 he actually was one of the first people that I's seen ever,
2 like, speaking about this, kind of this next generation thing
3 that people really hadn't even implemented yet.

4 So he was really far ahead, and customers really
5 looked at him as kind of a whisperer, if you will, about where
6 technology was going, and that was exactly, you know, what we
7 wanted in the CTO office.

8 Q. I'd like to move to D24.

9 Your Honor, if I could?

10 THE COURT: Yes.

11 Q. Mr. Stevens, who is Jonathan Donaldson?

12 A. He was a member of OCTO.

13 Q. Did you know of Mr. Donaldson before he joined OCTO?

14 A. I did.

15 Q. And how did you know of Mr. Donaldson before he joined
16 OCTO?

17 A. Because when he was at Intel, I would — I would have
18 worked with him when I was at Red Hat.

19 Q. Why was Mr. Donaldson hired as an L9?

20 A. Oh, just a super-senior technologist. I mean, not just his
21 work at Intel, the work that I had seen him at Intel, but a lot
22 of the work even prior to Intel that he did. The VCE was —
23 the V was VMware, the C was Cisco, and the E was EMC. So the
24 VCE company was bringing together these three companies and
25 building a product offering out of it. So in many ways VCE was

NAJHRow2

Stevens - Direct

1 the original cloud. They just didn't call it cloud back then,
2 and he led engineering for that effort.

3 Q. Now, was it just the number of years of experience he had?

4 A. Number — number of years doesn't really matter for
5 anything.

6 Q. What does matter?

7 A. Well, you can spend all your time not learning, right, or
8 you can spend all your time enjoying and doing the same thing.
9 There's nothing wrong with any of those. Everybody has
10 different — so I actually on resumes, ten years sometimes can
11 work against you, right, because I actually prefer to see
12 people that, for the roles that we're hiring in, like, get out
13 of their comfort zone and take a new mission. Don't get
14 complacent. Go learn a new thing. Solve a new problem. So
15 what I liked about him is he did have those chapters, but it
16 wasn't purely just the amount of years, it was what he did in
17 those times.

18 Q. Like to ask you about somebody else. Do you know who Scott
19 Penberthy is?

20 A. I do.

21 MR. GAGE: May I approach?

22 THE COURT: Yes, you may.

23 Q. D44. Was Scott Penberthy hired into OCTO?

24 A. He was.

25 Q. Are you familiar with Scott Penberthy's background?

NAJHRow2

Stevens - Direct

1 A. I am.

2 Q. Ms. Rowe has testified in this trial that she was better
3 qualified than Scott Penberthy. Do you agree with that
4 statement?

5 A. That she was better qualified? I couldn't say she was
6 better qualified, no. Scott was amazingly strong, right?
7 Ulku's amazingly strong, but Scott was amazingly strong as
8 well. I wouldn't say — they're very different.

9 Q. How was Mr. Penberthy very strong?

10 A. Just mind if I refresh my memory a little bit?

11 Yeah. Like, Scott, obviously, like, his background,
12 you know, is schooling at MIT and doing the formal, which I
13 think is great, but there's great paths that you can be very
14 successful without that formal training. So the schooling
15 isn't the only thing. But, like, when I — it's funny, when I
16 look at résumés like this, I always look, like I said, at what
17 they've done through their years. And one of the things that
18 stood out the most to me was his work at IBM, believe it or
19 not.

20 Q. Why is that?

21 A. Just because to become a vice president at IBM, you know —
22 and there's a difference between vice presidents that are in
23 sales organizations and vice presidents that are in engineering
24 organizations. And sales the VPs, you often have to have that
25 for the title to have the conversation with customers, so

NAJVR0W3

Stevens - Cross

1 connection with that role either; correct?

2 A. I could have had a conversation with Tariq, but I don't
3 recall.

4 Q. Do you recall whether you were asked to provide a
5 reference?

6 A. I think it was clear that I was a reference because I was
7 asking Tariq to consider her.

8 Q. In interviewing Ms. Leyfield, you weren't doing any sort of
9 comparison of her to Ms. Rowe; correct?

10 A. No, I wasn't. They were -- yeah.

11 Q. And I believe with Ms. Leyfield, your ultimate
12 recommendation was leaning higher; correct?

13 A. That's right.

14 Q. And above that is higher; is that right?

15 A. That's right.

16 Q. And then strong higher?

17 A. That's right.

18 Q. Is there something above strong higher?

19 A. It's been a while for me. But leaning higher often, just
20 for clarification, means you'll see -- like, you can see --
21 like, when I do leaning higher, leaning higher might mean
22 because you don't fully understand how they plan to use the
23 person. So when I say leaning higher, I'll measure them on a
24 dimension that I understand, and then there might be some
25 unknowns that I don't know about that particular role. And so

NAJVR0W3

Stevens - Redirect

1 I'll say leaning higher based on, you know, this other aspect.

2 Q. You didn't do anything to document what your basis or
3 belief was for the levels that the men received, the L9 men
4 received at the time they were being hired, did you?

5 A. I don't think I understand the question.

6 Can you restate it?

7 Q. Did you do any sort of leveling justification or leveling
8 explanation for why those men should be brought in as an L9?

9 A. Other than reviewing packets. I mean, you look at the
10 people that interviewed them, you look at the referrals, you
11 look at what they've done. It's the whole complete package
12 that you see, so I would have reviewed that.

13 Q. But you weren't reviewing that against any sort of leveling
14 guide; correct?

15 A. I believe we had a leveling guide for that. You're saying
16 that maybe it didn't go to Level 9, but I don't recall that.

17 Q. You were never interviewed by ER in connection with this
18 matter, were you?

19 A. ER.

20 Q. Employee relations.

21 A. Related to this, no.

22 MS. GREENE: No further questions.

23 MR. GAGE: Just a few questions, Judge.

24 REDIRECT EXAMINATION

25 BY MR. GAGE:

NAJVR0W3

Stevens - Redirect

1 Q. Mr. Stevens, the deposition that Ms. Greene played was
2 taken -- you gave your deposition in November of 2020; correct?

3 A. Yup.

4 Q. That was almost three years ago?

5 A. Right.

6 Q. At the time you gave your deposition, how long had you been
7 gone from Google?

8 A. I want to say May of 2019, so close to a year and a half
9 probably.

10 Q. Ms. Greene asked you some questions about a ladder and you
11 referenced a TSC ladder, I think you referenced.

12 A. Right.

13 Q. Did it take some time for Mr. Grannis to build out the
14 ladder for the technical director role?

15 A. Possibly.

16 Q. Whose decision was it to select the financial services
17 vertical lead?

18 A. Tariq and probably Diane on top of that, yeah.

19 Q. It wasn't your decision, was it?

20 A. No.

21 Q. Ms. Greene asked you why you didn't interview Ms. Rowe for
22 the financial services vertical lead position, and I think you
23 said you had already interviewed her, right?

24 A. Right.

25 Q. Was it common for someone like yourself not to interview

NAJHRow4

Lawrence - Direct

1 responding to here in this email? If it helps, we can look at
2 the email immediately beneath this if it helps contextualize.

3 A. Can I look at that?

4 Q. Sure.

5 Jean, can you pull that up.

6 A. OK. Yes.

7 Q. Now, going back to the June 14, 11:25 a.m., do you now have
8 a context to what you were responding to here?

9 A. Yeah. It looks like I was sending a note to Ulku. It says
10 I saw her briefly virtually. Maybe I saw her in a Team
11 meeting. I offered to chat with her or we can connect next
12 week at the off-site. That would have been an OCTO off-site
13 that was in the offing. And I basically — you know, I just
14 was talking to her directly. That she was being offered a —
15 or she was being offered a role in the — I think what's called
16 industries — industry solutions team that Tariq Shaukat was
17 running, and I just encouraged her to really, like, lean in
18 and, you know, take best — take best advantage of the role
19 that she was being given.

20 Q. Now, at the bottom of this email, I just want to focus on a
21 sentence that says, "I do want to flag that if you were to be
22 selected for this role, you would do it at your current level.
23 We do not uplevel candidates when taking on a new role."

24 When you wrote "selected for this role," are you
25 referring to a particular role in Tariq Shaukat's organization?

NAJHRow4

Lawrence - Direct

1 A. Yes. The best of my knowledge, Ulku wanted to be
2 considered for a VP role that would head up the financial
3 services vertical in Tariq's organization. So when I'm saying
4 I want to flag that if you were selected for this role, that's
5 the role that I was referring to, and then I went on to say you
6 would do it at your current level.

7 Q. Why is that? Why would she do that role at her current
8 level?

9 A. So at Google, if you — if you're in role A and you take
10 role B, even if role B is a different level, a higher level,
11 you don't get re-leveled upon transfer. You would take on the,
12 say, Level 9 role or the VP role as a Level 8.

13 And I go on to say that if you took on a role that had
14 increased scope, had a bigger — maybe had a bigger
15 organization or a bigger opportunity for impact, you could get
16 promoted for doing that role, but at that time there was no
17 sort of transfer with promotion or with level change. You
18 would take the new role at your current level.

19 Q. And would you be automatically promoted to a higher level
20 once you took the new role?

21 A. To my knowledge, there's no such thing as an automatic
22 promotion. You would still need to go through the technical
23 promotion process, but certainly having a role with the
24 increased scope and impact would make it easier for the
25 committee to approve a promotion.

NAJHRow4

Lawrence - Direct

1 Q. One last document, Ms. Lawrence.

2 If we could quickly look at Plaintiff's Exhibit 43,
3 please.

4 Now, Ms. Lawrence, this is two pages of an email, so
5 let this sit up for a second and look at this one.

6 Do you recognize this document?

7 A. I do, yes.

8 Q. Is this — Jean, can you go back to the second page.

9 This, what we're looking at here, is this an email
10 from Ms. Rowe to you and Kevin Lucas in and around August 28,
11 2018?

12 A. I believe so, yes.

13 Q. If you could just look at the substance of the document in
14 front of you, do you recall what it was that Ms. Rowe was
15 communicating to you and plussing in Kevin, Kevin Lucas, as an
16 FYI?

17 A. So Kevin Lucas was Tariq — I always get his name wrong —
18 Shaukat's HR partner. The email was to her current HR partner
19 and me, as her former HR partner with OCTO. And what she's
20 saying is she's in the process of interviewing for that role
21 that I just referred to, the head of financial services role
22 for Google Cloud, and she's indeed raising that — this issue
23 that I just talked about where she was hired in as an L8. And
24 to my memory, this is the first time that she referred to her
25 male peers or referred to gender as part of the comparison. So

NAJHRow4

Kliphouse - Direct

1 Q. And did you meet with Ms. Rowe?

2 A. I did.

3 Q. Where did you meet?

4 A. Some coffee shop up near Sloan. That's all I could
5 remember. I don't remember the name.

6 Q. Ms. Rowe testified earlier in this trial that it was about
7 a ten-minute conversation. Is that consistent with your
8 recollection?

9 MS. GREENE: Objection. Inconsistent with the record.

10 THE COURT: Just ask an open-ended question.

11 Q. How long do you remember that meeting being?

12 A. About 45 minutes.

13 Q. During that meeting, did Ms. Rowe describe to you the work
14 that she was doing with regulators at the time?

15 A. During that meeting, we had discussed a lot of different
16 things. I had asked her about what she was working on, and she
17 said she was working with the regulators because I was — I
18 didn't know her, and I didn't know what she was doing in
19 financial services. I had a financial services team, but I had
20 never heard of her. So she offered up she was working in the
21 regulatory side, which was not the part of the business that my
22 team worked on.

23 Q. During the course of that conversation, did she impress you
24 as someone that could fulfill the vice president financial
25 services sales role you were looking to fill?

NAJHRow4

Kliphouse - Direct

1 A. No, our conversation was not about the role I had open.

2 Q. Did the role you had open ever come up in the conversation?

3 A. At the end of the conversation, I had mentioned that I was
4 leading a financial services team and that there was a role
5 that was — I was looking for a leader in for a role and
6 encouraged her to work with my team, but I did not offer her a
7 role, no.

8 Q. Is there anything else that you recall about the end of
9 that conversation, that meet-and-greet that you had with
10 Ms. Rowe?

11 A. Well, in passing at the end of the conversation, she had
12 mentioned that she had some issues with Google, and I didn't
13 know what it was about, and she didn't offer any more than
14 that. That was really the end of it, just sort of came out.
15 And I thought it was kind of unusual to say that, but...

16 Q. Do I hear you correctly that she did not offer details
17 about what those issues were?

18 A. No, we did not talk about that. It was at the very end as
19 we were both kind of parting, and kind of left it there.

20 Q. Did you ask any questions about what those issues were?

21 A. No.

22 Q. Did you care?

23 A. No. It wasn't relevant to what our meet-and-greet was
24 about or to anything I had going on, so I just left it alone.

25 Q. Subsequent to that, that meet and greet that you just

NAJHRow4

Kliphouse - Direct

1 described, did Ms. Rowe reach out to you after that to further
2 inquire about the financial services sales role on your team?

3 A. No.

4 Q. Now, earlier you had testified about Stuart Vardaman. You
5 said he was your recruiting partner. In your time working with
6 him, were you able to form an opinion as to his capabilities as
7 a recruiter working for you?

8 A. Yes. I worked with Stuart on several — Stuart and his
9 team on — in many different roles. Typically, at the Level 10
10 or these more senior vice president-type roles, Stuart and I
11 would engage more directly versus working with his team on
12 them. We developed a good working relationship. He'd show me
13 the candidate. We'd use a structured way to go through
14 candidates and qualifications for roles. We worked a lot on
15 the job description so that when they were out there in the
16 market looking for candidates, internally or externally, we
17 could comb through them and compare them to a qualified job
18 description, otherwise the field was too big.

19 So we kept a pretty good — he did a very good job
20 keeping together what was the role, what were the
21 qualifications necessary, and then how did the candidate fit
22 against that. And he actually would help us screen a lot of
23 the candidates up front to make sure they met those
24 qualifications.

25 Q. In your estimation, was Mr. Vardaman a good recruiter?

NAJHRow4

Kliphouse - Cross

1 A. Yes.

2 Q. And did he follow all the directions that you gave him with
3 respect to helping you fill these roles that were open on your
4 team?

5 A. Yes.

6 Q. And did he do so in this instance for the vice president
7 financial services sales role?

8 A. Yes.

9 MS. TOMEZSKO: Thank you, Ms. Kliphouse. I have no
10 further questions.

11 CROSS-EXAMINATION

12 BY MS. GREENE:

13 Q. Just a few, Ms. Kliphouse.

14 You testified just a minute ago that Ms. Rowe did not
15 reach out to you after that coffee meeting about the role. Is
16 that your testimony?

17 A. Yes.

18 Q. Do you know if Ms. Rowe reached out to Stuart Vardaman?

19 A. I don't know her conversations with Stuart, I don't.

20 Q. You were shown that document dated February 21, I believe.
21 Do you know if Ms. Rowe had spoken with Mr. Vardaman prior to
22 February 21, 2020?

23 A. I don't know of her conversations, no.

24 Q. Did Mr. Vardaman share anything with you about Ms. Rowe's
25 qualifications?

NAJHRow4

Kliphouse - Cross

1 A. On the list of where all the candidates were, we did review
2 all of the candidates on there and how they mapped or didn't
3 map to the qualification list. And we did talk about Ulku and
4 another candidate at that time that was also internal that was
5 on that list. We talked about their qualifications and where
6 they would map to them or they were not as qualified as others
7 that we had on the list.

8 Q. And that was information that Mr. Vardaman told you, that
9 she was not as qualified as other people on the list?

10 A. No, no, he didn't say that. We talked through what the
11 qualifications were and did the candidate meet these
12 qualifications we had. And so in the instance specifically
13 around Ulku, we talked about what are the qualifications we
14 want? C-level expertise, did they have the relationships? Did
15 they have the ability to have executive communications with
16 them? Did they have the outreach capabilities? And we had
17 looked at that as being one of the main qualifications, so we
18 would have talked about that, yes.

19 Q. And what information did you have about her qualifications
20 at that time?

21 A. So I would have had whatever was on her submitted
22 materials. It would have been done with her résumé or what had
23 been submitted to be on that list.

24 Q. And do you know whether Mr. Vardaman asked her to submit
25 anything?

NAJHRow4

Kliphouse - Cross

1 A. I don't know what he asked her specifically, no.

2 Q. And you didn't get any internal references related to
3 Ms. Rowe? You didn't speak with Mr. Grannis about her
4 qualifications, for instance, did you?

5 A. No, not about her qualifications for my role. He asked me
6 to do a meet and greet with her specifically. He did not ask
7 me to meet with her about any roles.

8 Q. And that coffee meeting with Ms. Rowe, that was not an
9 interview for the position, correct?

10 A. No, it was not an interview. It was networking meet and
11 greet, can you do me a favor and meet with her?

12 Q. Did you know what Ms. Rowe's level was within Google?

13 A. I did not know explicitly her level, and I wouldn't know
14 that except I knew she was not a vice president. But I
15 wouldn't know what specific level she would have been. I
16 wouldn't have access to that.

17 Q. And a vice president is what level?

18 A. Vice presidents were Level 10s.

19 Q. So you knew that she was a level below a 10?

20 A. Something.

21 Q. Is that right?

22 A. Uh-huh.

23 Q. So you didn't know anything about Ms. Rowe's C-suite
24 relationships, correct?

25 A. Just from what we had talked about in the meet and greet

NAKHRow1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 ULKU ROWE,

4 Plaintiff,

5 v.

19 Civ. 8655 (JHR)

6 GOOGLE LLC,

7 Defendant.

Trial

8 -----x

New York, N.Y.
October 20, 2023
8:30 a.m.

10 Before:

11 HON. JENNIFER H. REARDEN,

12 District Judge
13 -and a jury-

14 APPEARANCES

15 OUTTEN & GOLDEN, LLP
Attorneys for Plaintiff

16 BY: CARA E. GREENE
GREGORY S. CHIARELLO
17 SHIRA Z. GELFAND

18 PAUL HASTINGS LLP
Attorneys for Defendant

19 BY: KENNETH W. GAGE
SARA B. TOMEZSKO

20 Also Present: Vincent Yang, Paralegal (Outten & Golden)
21 Andrew Velazquez, Google Rep.
22 Jean Gutierrez, Paralegal (Paul Hastings)

NAKHRow3

Summation - Mr. Gage

1 expectations for a Level 8 than there are for a Level 9. And
2 initial equity is also similarly calculated based upon the job
3 code. And he talked about how they go to use external market
4 benchmarking. Again, this is all without regard to the person.
5 It's all without regard to whether it's a man or a woman. It's
6 purely based on roles and responsibilities associated with the
7 job code.

8 Now, he explained for you how he calculated her
9 starting pay package, and there's been a lot of back and forth
10 in this trial about whether Ms. Rowe was giving something up.
11 And I think you heard her and her counsel say, well, she was
12 giving something up when she came to Google, others weren't.
13 But Mr. Humez explained that that's not the way they do it.
14 They calculate cash flows. And so Ms. Rowe wasn't giving
15 something up when she left JPMorgan Chase. What she was
16 talking about were stock awards she had received in prior years
17 that she was not going to realize, she was not going to
18 receive, unless she earned them. They were not vested. She
19 told you they were unvested. And what that means is she needs
20 to work the next year at JPMorgan Chase to earn that next piece
21 of that vested stock award.

22 And so Mr. Humez explained that's how they did it.
23 They're estimating what Ms. Rowe's cash flow would be if she
24 worked at JPMorgan another year, another two years, another
25 three years, what she could reasonably expect to earn based

NAKHRow3

Summation - Mr. Gage

1 upon these prior awards that had not fully vested.

2 You also heard about Mr. Breslow's equity award at
3 Google, and he forfeited \$2 million of it because, again,
4 similarly, it hadn't vested.

5 Now, I'd like to show you a demonstrative we have that
6 illustrates for you the starting pay packages of a group of
7 Level 8 and Level 9 technical directors in OCTO. And
8 Ms. Rowe's bar is this one right here. There's one bar higher
9 than hers, and that's Evren Eryurek, which means that her bar,
10 the value that Google placed on her as an entering employee,
11 was that high. That means that it was higher than four of the
12 Level 9s. It was higher than a whole bunch of Level 8s.

13 Google valued Ms. Rowe. Does that look like sex
14 discrimination to you? I don't think it is.

15 Now, Mr. Humez also told you that all of the other
16 technical directors who started around the same time, they had
17 lower market reference points. Ms. Rowe's was about
18 98 percent; others were lower. Again, that's specific to the
19 job code. Each year Google adjusts her pay based upon her
20 performance against expectations. That's what I talked about
21 on the first day of the trial. Google sets expectations based
22 upon the job code, based upon the level, and she's measured
23 against them.

24 And you can take a look at these prosper letters,
25 P-134, 132, 130, 136, and so on, hers and the Level 9s, and if

NAKHRow3

Summation - Mr. Gage

1 you look at them, you will see there are years when she earns
2 more than some of the Level 9s. And what means is they had
3 higher expectations, and they might not have met them. And the
4 consequence is they fall further.

5 And Ms. Greene showed you a subset of those L9s in one
6 of her charts and their compensation to show that Ms. Rowe was
7 lower than them in those years, but she left two people out.
8 And that's because those are two people that she, in some
9 years, earned more than. Level 9s do not always earn more than
10 Level 8s. That's the point.

11 Annual earnings are a function of performance against
12 level-specific expectations, and in some years Ms. Rowe earned
13 more than them.

14 Now, again, she was evaluated against Level 8
15 standards. And, yes, she absolutely got exceeds expectations,
16 and that was a middle rating. And, yes, this question, "What's
17 one thing you plan to do to have more impact?" is one that
18 everybody has answered. Google gives feedback to their
19 employees, and you will see if you look at these documents in
20 P-126, which is Ms. Rowe's performance evaluation, she gets
21 honest feedback, both positive and constructive. And the
22 consistent theme that she's been told over and over and over
23 again by Mr. Grannis and now Ms. Florissi is that she needs to
24 have more engineering impact. This is an engineering job. And
25 over time the expectation in terms of public speaking has gone

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Charge

1 testimony of all witnesses, regardless of who may have called
2 them, and all the relevant exhibits received in evidence,
3 regardless of who may have produced them.

4 If, after considering all of the testimony, you are
5 satisfied that the plaintiff, the party with the burden of
6 proof, has carried her burden on each essential point of her
7 claim, then you must find in her favor.

8 If, after such consideration you find that the
9 evidence produced by the plaintiff is outweighed by the
10 evidence against the plaintiff's position, or that the credible
11 evidence on a given issue is evenly divided between the
12 parties, that it is as equally probable that one side is right
13 as it is that the other side is right, then you must decide
14 that issue against the plaintiff. The reason for this is that
15 the plaintiff, because she bears the burden of proof, must
16 prove more than simple equality of evidence; she must prove the
17 element by a preponderance of the evidence. On the other hand,
18 the plaintiff need prove no more than a preponderance, so long
19 as you find that the scales tip, however slightly, in favor of
20 the plaintiff, that what she claims is more likely true than
21 not, then that element will have been proven by a preponderance
22 of the evidence.

23 Some of you may have heard of "proof beyond a
24 reasonable doubt," which is the proper standard of proof only
25 in a criminal trial. That requirement does not apply to a

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Charge

1 civil case such as this one, and you should put it out of your
2 mind.

3 I am now going to instruct you on the substantive law
4 to be applied to the claims in this lawsuit. I want to
5 emphasize here that you should consider each claim separately.

6 This case involves four claims made by Ms. Rowe
7 against Google:

8 First, Ms. Rowe claims that Google violated Section
9 194 of the New York Labor Law by failing to pay her the same as
10 men, specifically, Nicholas Harteau and Stuart Breslow, who she
11 argues performed equal or substantially equal work to her.

12 Second, Ms. Rowe claims that Google discriminated
13 against her on account of her gender by under-leveling her at
14 hire, paying her less than comparable men, refusing to consider
15 her for the role of financial services vertical lead, and
16 generally treating her less well because of her gender, in
17 violation of the New York City Human Rights Law.

18 Finally, Ms. Rowe brings two claims of retaliation.
19 One under the New York Labor Law, and one under the New York
20 City Human Rights Law. She alleges that in response to
21 concerns she raised about discrimination and unequal pay
22 practices, Google retaliated against her by refusing to
23 consider her for two positions: The financial services
24 vertical lead position in 2018, and the vice president
25 financial services sales position in 2020, and/or otherwise

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1 engaged in retaliatory conduct against her.

2 Google denies these claims. It contends that at all
3 times it treated Ms. Rowe in accordance with the law.
4 Specifically, Google asserts that under Section 194 of the New
5 York Labor Law, Ms. Rowe was paid what she was lawfully owed,
6 and that any difference in compensation between her and male
7 employees performing equal work was based on lawful job-related
8 factors other than gender.

9 Google asserts that under the New York City Human
10 Rights Law, it treated Ms. Rowe no differently than similarly
11 situated male employees, and that all of its actions towards
12 Ms. Rowe were motivated only by legitimate business reasons.

13 I will now give further instructions on each of these
14 claims.

15 Ms. Rowe brings a claim under Section 194 of the New
16 York Labor Law. I will refer to this law as Labor Law Section
17 194.

18 As applicable here, Labor Law Section 194 prohibits
19 employers from paying men and women in the same establishment
20 different wages except under certain circumstances as I will
21 explain in more detail momentarily.

22 Labor Law Section 194 is a strict liability statute,
23 meaning that a plaintiff need not show that her employer
24 intentionally paid her less because she is a woman. Both
25 parties bear a burden of proof on this claim. First, Ms. Rowe

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1 If Ms. Rowe proves all three elements of her Labor Law
2 Section 194 claim, then she is entitled to recover on her claim
3 unless Google meets its burden of proving by a preponderance of
4 the evidence that Ms. Rowe was paid less based on a *bona fide*
5 factor other than sex, such as education, training, and
6 experience; and that the factor was both job-related and
7 consistent with business necessity.

8 To meet its burden of establishing business necessity,
9 Google must prove by a preponderance of the evidence that the
10 factor is based on a genuine business need and bears a manifest
11 relationship to the job or a demonstrable relationship to
12 successful performance of the jobs.

13 Separate from her Labor Law Section 194 claim,
14 Ms. Rowe brings a gender discrimination claim under the New
15 York City Human Rights Law which I will refer to as "the city
16 law."

17 Under the city law, it is against the law for an
18 employer to discriminate against an employee on the basis of
19 gender, including by paying an employee less on that basis or
20 by refusing to hire or promote that individual. Stated more
21 broadly, the city law makes it unlawful for an employer to
22 treat an employee less well in any way, at least in part
23 because of that person's gender.

24 The question of whether Google is liable under the
25 city law is separate and distinct from the question of whether

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1 Google is liable under the labor law described a moment ago,
2 even though some conduct may be actionable under both laws.

3 The city law has been violated if you find by a
4 preponderance of the evidence that gender played some role in
5 Google's treatment of Ms. Rowe. Ms. Rowe need not establish
6 that her gender was the sole consideration or even the most
7 important consideration motivating Google in any of those
8 circumstances. Indeed, a number of factors may have
9 contributed to the company's actions. If you find that Google
10 treated Ms. Rowe less well, at least in part because of her
11 gender, then she may succeed on this claim, even if you find
12 that Google's conduct was also motivated by a lawful reason.

13 Keep in mind, however, that the city law is not a
14 general civility code; thus, Google can still avoid liability
15 by proving by a preponderance of the evidence that the
16 complained of conduct at issue is nothing more than what a
17 reasonable person would consider petty slights or trivial
18 inconveniences.

19 In determining whether Google discriminated against
20 Ms. Rowe because of her gender, you may consider a variety of
21 factors, including whether the language or conduct of Google
22 managers reveals a bias against women or preference for men;
23 whether Google treated Ms. Rowe less well than similarly
24 situated men; whether Google's explanations for its actions
25 were credible or whether they are contradicted by fact or

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1 changed over time; or whether any of Google's witnesses were
2 untruthful either at trial or when speaking to Ms. Rowe.

3 In making this determination, however, you may not
4 second-guess Google's business judgment. In other words, you
5 may not find discrimination simply because you think that a
6 business decision that Google made was incorrect or unwise or
7 because you disagree with the decision.

8 One note on similarly situated men: While comparisons
9 may offer some evidence of discrimination, comparisons are not
10 the only way to prove discrimination. I noted for you just now
11 a number of ways on which the parties agree that discrimination
12 may be proven. However, to the extent you consider whether
13 Google treated similarly situated men differently than
14 Ms. Rowe, I will give you some guidelines.

15 Under the city law, for a plaintiff and a comparator
16 to be similarly situated, the plaintiff is not required to show
17 that both individuals' circumstances were identical; rather,
18 the fact-finder must examine the acts, context, and surrounding
19 circumstances of the plaintiff and her comparator to determine
20 whether the comparator is similarly situated such that you
21 believe a difference in their treatment could reasonably lead
22 to the conclusion that it was because of gender. This is
23 different from the standard I explained for comparators under
24 the labor law.

25 Ms. Rowe also claims that Google retaliated against

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1 her for complaining about discrimination in the workplace.
2 Such retaliation is unlawful under the New York City Human
3 Rights Law, which I will again refer to as "the city law," as
4 well as the New York Labor Law, which I will refer to as "the
5 labor law."

6 Specifically, under the city law, it is unlawful for
7 an employer to retaliate or discriminate in any manner against
8 any person because such person has raised reasonably and in
9 good faith concerns about discrimination. Similarly, under the
10 labor law, it is unlawful for an employer to retaliate or
11 discriminate in any manner against any person because such
12 person has made a complaint to her employer that she reasonably
13 and in good faith believes the employer has violated the labor
14 law regarding unequal pay between women and men.

15 In order to find for Ms. Rowe on these claims under
16 either of these statutes, you must find that she proved each of
17 the following four elements by a preponderance of the evidence:

18 First, Ms. Rowe engaged in a protected activity.

19 Second, her employer, Google, was aware of the
20 protected activity.

21 Third, Google engaged in what is commonly referred to
22 as an adverse action, that is, conduct that could be reasonably
23 expected to chill or deter someone from engaging in protected
24 activity.

25 And fourth, there is a causal connection between the

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1 protected activity and the adverse action; that is, the
2 complaints that were made were, at least in part, the reason
3 why the adverse employment action took place. This framework
4 is common to retaliation claims under both the city law and the
5 labor law.

6 I will now address each of these elements in further
7 detail.

8 The first element that Ms. Rowe must prove is that she
9 engaged in a protected activity. A plaintiff engages in a
10 protected activity when she complains about what she reasonably
11 and in good faith believes to be unlawful, discriminatory
12 employment practices. To prove that her activities were
13 protected, Ms. Rowe need not establish that her claims of
14 discrimination were valid; however, she must show that she
15 expressed clear disapproval of Google's allegedly unlawful
16 conduct by communicating in substance that she thought the
17 conduct was wrong.

18 Ms. Rowe must also establish that she had a good-faith
19 reasonable belief at the time she complained of Google's
20 actions that those actions violated the antidiscrimination
21 laws. If Ms. Rowe's concern was not raised in good faith, but
22 rather was raised in order to, for example, protect her job or
23 attempt to extract a benefit from Google, she has not satisfied
24 the good-faith requirement.

25 Ms. Rowe is also required to prove by a preponderance

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1 of the evidence that Google was aware that she had engaged in
2 protected activity. After all, if Google did not know that she
3 had complained about discrimination, then logically it could
4 not have taken any adverse actions against her on account of
5 any protected activity she may have engaged in.

6 To satisfy this element, it is not necessary for
7 Ms. Rowe to prove that any specific actors or individuals knew
8 that she had complained; she need only demonstrate general
9 corporate knowledge by Google.

10 The third element that Ms. Rowe must prove by a
11 preponderance of the evidence is that Google engaged in an
12 adverse action, that is, conduct that would be reasonably
13 likely to deter a person from engaging in protected activity.
14 The retaliation complained of need not result in a materially
15 adverse change in the terms or conditions of the plaintiff's
16 employment.

17 In determining whether Ms. Rowe was subject to
18 retaliation, keep in mind your sense of workplace realities and
19 the fact that the chilling effect of particular conduct depends
20 on the context. The totality of the circumstances must be
21 considered because the overall context in which the challenged
22 conduct occurs cannot be ignored.

23 It is of no consequence that the challenged conduct
24 may not have been severe or pervasive, because the challenged
25 conduct's severity and pervasiveness are only relevant to the

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1 issue of damages, not liability. However, the defendant is not
2 liable if the plaintiff fails to prove that the challenged
3 conduct was caused at least in part by a retaliatory motive, or
4 if the defendant proves that the conduct was nothing more than
5 petty slights or trivial inconveniences.

6 Finally, Ms. Rowe must establish that the adverse
7 action or actions taken by Google was or were taken at least in
8 part because of Ms. Rowe's protected activity. In other words,
9 she must establish that there was a causal connection between
10 the protected activity and the adverse actions.

11 To establish a causal connection, Ms. Rowe bears the
12 burden of proving by a preponderance of the evidence that
13 Google intentionally retaliated against her by taking one or
14 more adverse actions against her, and that retaliation was a
15 motivating factor in Google's decision to take the action or
16 actions that it did.

17 A motivating factor is a factor that made a difference
18 or played a part in a decision. To be clear, that factor need
19 not be the sole consideration or even the most important
20 consideration motivating the adverse action or actions. To
21 satisfy this element, Ms. Rowe can use indirect or
22 circumstantial evidence or she can introduce direct evidence of
23 retaliatory motive.

24 If you conclude that Ms. Rowe has met her burden of
25 proof by a preponderance of the evidence with respect to her

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1 claims for unequal pay, gender discrimination, and/or
2 retaliation, then you must determine the damages, if any, to
3 which Ms. Rowe is entitled. On the other hand, if you find for
4 Google on all claims, you will not consider the issue of
5 damages at all; you will simply report a verdict for Google on
6 all claims.

7 You should not infer that Ms. Rowe is entitled to
8 recover damages merely because I am instructing you on how to
9 calculate damages. It is exclusively your function to
10 determine liability, and I am instructing you on damages only
11 so that you will have guidance should you decide that Ms. Rowe
12 prevails on any of her claims.

13 Damages must be based on evidence, not on speculation
14 or sympathy, and you may only award damages for those injuries
15 that Ms. Rowe actually suffered as a result of Google's
16 conduct. It is the plaintiff, that is, Ms. Rowe, who bears the
17 burden of proving her damages by a preponderance of the
18 evidence.

19 In this case, you may consider awarding several
20 different types of damages: Backpay, statutory damages under
21 New York Labor Law Section 194, compensatory damages, nominal
22 damages, and punitive damages. Whether such damages are
23 actually to be awarded in this case and, if so, in what amount,
24 are for you, the jury, to decide in accordance with my
25 instructions. If you make any award of damages, such award is